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TRANSACTIONS OF THE
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THE CHURCH IN ENGLAND BETWEEN THE DEATH OF BEDE AND THE DANISH INVASIONS

By D. J. V. Fisher, M.A.

READ 13 JANUARY 1951

I

UNTIL a few years ago, it was customary to assume that the pre-Conquest Church in England enjoyed two golden ages—between the arrival of Theodore of Tarsus and the death of Bede, and the age of St. Dunstan; and that from Bede's death until the Danish invasions, and from the death of Dunstan until the Norman Conquest, the Church stagnated and even declined. Justice has now been done to the last phase of the Anglo-Saxon Church. More tentatively it has been suggested that its shortcomings in the eighth and ninth centuries were less serious than had once been supposed. It is the purpose of this paper to question whether for the earlier period the process of rehabilitation has gone far enough.

To belittle the achievement of Archbishop Theodore and his associates and immediate successors would be foolish, but it is proper to point out that the task of Christianizing England was not to be completed within one generation or even two. It has recently been observed that

> the people of Essex relapsed into paganism during the pestilence of 664 . . . the conversion of Sussex did not begin until 680, and the Isle of Wight was heathen in 686. Cissa who succeeded Guthlac at Crowland in 714 was unbaptized only a few years earlier.[1]

[1] D. Whitelock, 'Anglo-Saxon Poetry and the Historian', *Trans. R. Hist. Soc.*, 4th series, xxxi. 83–4.

In short, it was not until the first quarter of the eighth century was over that Christianity felt secure. Yet one hundred and thirty years after Bede's death, when the Danes came and conquered half the country, the evidence at our disposal shows that they were converted to Christianity with startling rapidity. This is true for both Northumbria and East Anglia.[1] Not only were the Danes converted, but within a short time they were providing dignitaries of the highest rank for the Church, including Oda of Canterbury and Oscytel of York. We hear of no formulated missionary activity in the Danelaw, and the machinery of ecclesiastical administration had been destroyed, yet the work of conversion was swiftly performed. It is hard to believe that it was carried out by the rank and file of a church either internally decayed or extinct as a result of violence.

It may plausibly be maintained that the effects of invasion have been exaggerated. Of the material destruction caused by the Danes there can be no doubt, and often the great monasteries, which were the principal casualties, did not recover for a long time. They suffered not so much because the Danes hated Christianity but because in them was concentrated a great proportion of the wealth of the land, much of it in easily portable forms, altar vessels of gold and silver, jewelled vestments and the like. The evidence of Asser and of the later biographers of the leaders of the tenth century reform movement makes it clear that at the beginning of the tenth century monasticism as a vital force was dead, even if in some places its external forms continued to be observed.[2]

For the historian of Christianity in England, the importance of this fact depends upon the view which he holds of the part that the monasteries played in the life of the Church in the period before the invasion. It is noteworthy that the sacking of a monastery was not by itself sufficient to extinguish a vigorous monastic life, and unless destruction was followed by a settlement upon the soil, the monastery might well revive. Lindisfarne, which suffered the first Danish onslaught in 793, recovered and enjoyed considerable

[1] D. Whitelock, 'The Conversion of the Eastern Danelaw', *Saga Book of the Viking Society*, xii. 159–76, and 'The Anglo-Saxon Attitude to the Scandinavian Invaders', *ibid.*, x. 75–100.

[2] D. Knowles, *The Monastic Order in England*, p. 695.

prosperity during part of the following century, and was not evacuated until 875.[1] Similarly at Canterbury, which saw more Danes than most places, St. Augustine's may have come nearer to the ideal of a monastic community than any other house in the south of England.[2] Glastonbury on the other hand suffered little, yet appears to have been moribund at the end of the century.[3] It has been remarked of the Danish raids and invasions at the end of the tenth and beginning of the following century that, though so widespread, they had remarkably little permanent effect upon the material prosperity of the monasteries.[4] How much of the extinction of monasticism at the end of the ninth century is attributable to the Danes, how much to internal degeneration is debatable. The fact remains; and it was clearly not due to the efforts of monastic communities that the Danelaw was made Christian. But to the near contemporary historians of this period, all monks writing for their brethren, the extinction of the great monasteries was the extinction of Christianity: the continued existence of smaller and less celebrated communities, often of secular clergy, and of local churches is a fact of which they take no account.

The stories of wholesale destruction told by the chroniclers probably give a misleading impression of what actually happened. Lindisfarne was abandoned in 875, not destroyed. There appears to have been no break in the succession of archbishops of York, and the church of Ripon was not destroyed until 948,[5] and then not by a pagan invader but by a Christian king of the West Saxons. A great deal must have depended upon chance, and the disposition of the army operating in a particular area at a particular time. All the Danes were not savages. On occasion they were deemed suitable allies for Christians, as when they joined with the Cornishmen in 838 [6] against Wessex, and they are occasionally to be found entering into some kind of treaty with the inhabitants of the area upon which they were based, as in East Anglia in 866 [7]. Before

[1] *Historia Dunelmensis Ecclesiae*, ed. F. Arnold in *Symeonis Monachi Opera* (Rolls Series), i. 54 ff.

[2] Knowles, *op. cit.*, p. 35.

[3] *Vita Sancti Dunstani Auctore B*, ed. W. Stubbs, *Memorials of Saint Dunstan* (Rolls Series), p. 7.

[4] Knowles, *op. cit.*, p. 69.

[5] *Anglo-Saxon Chronicle*, MS. D, a. 948.

[6] *Ibid.*, a. 835.

[7] *Ibid.*, a. 866.

ever they came as a grand army intent on conquest and settlement, they had come, in part as pirates, but also in part as traders.

The best account of the impact of a Danish army upon the native population comes in Abbo of Fleury's *Passion of St. Edmund*.[1] Though written a century after the events it recounts, it is based upon the account of an eye-witness, and therefore has a strong claim to credence. After describing the battle in which the king was killed, the author tells how the body was cut into small pieces and the head thrown into a thicket, 'so that the Christians, but few of whom were left alive, should not be able to commit it to decent burial'.[2] This barbarity was observed by one man.

> Accordingly when peace of some sort had been restored to the churches, the Christians began to emerge from their hiding-places. They pieced the body together without difficulty, and then united in great numbers to institute a search in every part of the wood's recesses, in the hope of reaching by hazard the spot where the head of the holy hero was lying.[3]

Aided by a miracle the head was discovered and joined to the body.

> And there they built over the grave a chapel of rude construction in which the body rested for many years, until the conflagration of war and the mighty storms of persecution were over, and the religious piety of the faithful began to revive, upon relief from the pressure of tribulation.[4]

Then, in 903, the body was removed to Bury, where there was built 'a church of immense size, with storeys admirably constructed of wood'.[5]

Nothing, in fact, could be easier than for the defeated native population to take refuge from the heathen army, and when it passed on to emerge once more and continue to live as though no catastrophe had intervened; the same kind of situation was repeated times without number in the villages of Italy and

[1] *Abbonis Floriacensis Passio Sancti Edmundi*, ed. T. Arnold, *Memorials of St. Edmund's Abbey* (Rolls Series), i. 3–25. It is also printed in *Corolla Sancti Eadmundi*, ed. Lord Francis Hervey, pp. 6–59, with a translation, from which I quote.

[2] *Ibid.*, c. xi.

[3] *Ibid.*, c. xii.

[4] *Ibid.*, c. xiv.

[5] *Ibid.*, c. xiv.

Normandy a few years ago. The East Anglian churches, though destroyed, could be rebuilt in a few weeks at most. Abbo's account of the Danes in East Anglia is probably true of other parts of the country which they ravaged. At Ely, for instance, eight members of the community returned after a few years.[1] The passage of a Danish army might be calamitous temporarily, but was not an irremediable catastrophe. And once the invaders turned to settlement they would no longer desire to exterminate their neighbours. It was thenceforward possible for the Christian population to convert their neighbours if they could, and if the will to do so was sufficiently strong. It can fairly be argued that if religious zeal had been lacking in the pre-Danish period then conversion might never have been achieved, or at least that it would have taken much longer to accomplish.

With this general consideration in mind it is proposed now to examine in more detail certain aspects of the history of the years after Bede's death.

II

The view that the church during this period was in decline rests upon a good deal of rather scattered evidence. Boniface's letter to Ethelbald of Mercia [2] and Bede's to Ecgberht of York [3] provide convincing testimony that the auguries for the future were unpromising. There is a lack of great personalities which contrasts strongly with the earlier period with its Theodore, Wilfrid, Aldhelm and Bede, and the later with Oda, Dunstan, Ethelwold and Oswald. A good deal has properly been made of the importance for the Church of the co-operation of kings, and there has been general agreement that Offa of Mercia, the most remarkable and important of them, was not motivated by benevolence towards it. The letters of Alcuin's later years paint a gloomy picture of England, bereft of its ancient dynasties and torn by internal dissensions, the metropolitan see itself preoccupied with its struggle to maintain its primacy.[4] In 808 Leo III wrote to Charlemagne deploring the hostility which obtained in the north

[1] *Liber Eliensis*, ed. D. J. Stewart, p. 83.

[2] *S. Bonifatii et Lullii Epistolae*, ed. M. Tangl, pp. 148–55.

[3] *Epistola Bedae ad Ecgbertum Episcopum*, ed. C. Plummer, *Baedae Opera Historica*, i. 405–23.

[4] *Epistolae Karolini Aevi*, ii, e.g. pp. 189–92.

between King Eardwulf and his Archbishop Eanbald and in the south between King Cenwulf of Mercia and Archbishop Wulfred.[1] This southern dispute reached serious proportions, and even when Cenwulf was dead it appears that disputes between the archbishop of Canterbury and King Ecgberht of Wessex continued until a final reconciliation was achieved in 838.[2] Very soon after this the Danish attacks began, and within a short time all was confusion.

To moderate this view a number of general considerations may be urged. In the space of the one hundred and thirty years which intervened between the death of Bede and the arrival of the great army, there was sufficient time for a great deal to happen: it would be surprising if the history of any institution revealed a uniform course of development for so long. Within such a period retrogression and reform could alternate more than once, and to interpret the history of the whole in terms of evidence derived from a part is misleading. Yet of the documents in Haddan and Stubbs' *Councils* relating to the years between 770 and 870, more than one-third derive from Ethelheard's tenure of the archbishopric, a period of fourteen years. Both in Northumbria and in southern England this was a time of exceptional difficulty. In Northumbria king succeeded king in rapid succession, while in the south these years witnessed the dispute over the archbishopric of Lichfield, the expulsion of the archbishop of Canterbury from Kent, and the general disturbance which followed the death of Offa, who was succeeded after a short interval by a king whose blood-relationship to the old dynasty was slender and whose strength was correspondingly impaired. It is dangerous to assume that the conditions which obtained then are a faithful mirror of the whole period; the history of the northern province, to which we shall revert, is a salutary reminder of this.

The very greatness of Bede and a few others creates its own difficulties. The historian, finding no one of like calibre in later years, unconsciously forgets how exceptional such men are, and that they would have been remarkable in any age. Dunstan and Anselm alone of medieval archbishops of Canterbury can compare with Theodore of Tarsus, and it would be difficult to contest the primacy of Bede as historian throughout the middle ages. In

[1] *Councils and Ecclesiastical Documents relating to Great Britain and Ireland*, ed. A. W. Haddan and W. Stubbs, iii. 562–4.

[2] *Ibid.*, iii. 617–18.

their own time they stand head and shoulders above the rest, and that their successors were lesser men is in itself no reproach. Reading the *Lives of the Abbots*, an impressive picture emerges of Jarrow in Bede's time, notable in its strict observance of the Rule laid down for it, and for its cultural activities. But Bede's letter to Ecgberht testifies to the fact that Jarrow was exceptional even among Northumbrian monasteries. To generalize about the level of monastic observance on the evidence provided by a few houses is notoriously unsound, for extremes of virtue and vice can be found almost side by side. It was possible for scandal to arise at Coldingham during Cuthbert's lifetime,[1] and the inmates of Repton were later to be outraged by Guthlac's abstemiousness.[2] It is probable that from the beginning most monasteries were founded by laymen and housed only a few inmates, whose observance of any rule depended largely upon the personal piety of their owner. A later age would not have recognized many of them as monasteries.

Again, political confusion inimical to the welfare of the Church was by no means confined to Northumbria in the latter half of the eighth century. In 676, during the episcopate of Theodore himself, while a war was raging between Hlothere and Edric son of Ecgberht, Ethelred of Mercia overran Kent and profaned its churches and monasteries, so that Bishop Putta of Rochester took refuge with Sexulf of Mercia, and his successor Cwichelm would not stay.[3] After this, Caedwalla of Wessex attempted unsuccessfully to reduce the kingdom and ravaged it repeatedly. A period of anarchy ensued which was ended by Wihtraed, who succeeded in restoring order during his lifetime. The Anglo-Saxon Chronicle provides ample evidence of internal dissensions in Wessex, and the life of St. Guthlac testifies to the fact that the Mercian kingship of Ethelbald and Offa was not achieved without bloodshed. And before leaving Bede, it may be mentioned that it is unfair to pass judgment upon the later period on the ground that it has left so few memorials of its activity. If Bede's contribution to our knowledge of the earlier phase of the Church is subtracted, precious little remains.

[1] Bede, *Hist. Eccles.*, iv. 23.

[2] Felix, *Vita Sancti Guthlaci Confessoris* (ed. W. de G. Birch, *Memorials of St. Guthlac*), p. 15.

[3] Bede, *Hist. Eccles.*, iv. 12.

Considerations of this kind breed doubts as to whether the golden age of Jarrow was in truth the golden age of the whole Church in England, and fittingly preface an attempt to examine more closely the evidence of subsequent decay. It may confidently be submitted that to write of the 'English Church' as an entity at this time is unprofitable. The churches of the conversion period were 'tribal' churches. In the eighth century there was no reason why the churches in England north and south of the Humber should develop on parallel lines. They had been drawn into a single organization by Theodore which lasted for seventy years, but there were always differences between northern and southern England which after the creation of a second metropolitan see at York in 735 became increasingly pronounced. For this reason it is proposed to deal first with the affairs of the Church in Northumbria and then to turn to Mercia and Wessex.

That the Northumbrian Church lost its vitality in the eighth century has been generally accepted; though the evidence is scanty, it appears at first sight to be conclusive. There is Bede's famous letter to Archbishop Ecgberht, enumerating the evils from which the Church suffered,[1] a letter of Pope Paul to King Eadbert asking him to restore three monasteries which he had violently seized from their abbot,[2] and lastly a series of gloomy letters from Alcuin to highly placed dignitaries in England.[3] That the evils which Bede denounced were very real when he wrote, cannot be doubted: but proof that they became worse in the years after his death is hard to find. In fact, conditions for co-operation between Church and State can hardly have been more favourable than during the years which followed, when Eadberht Eating was king and Ecgberht his brother archbishop of York.[4] But it was to this king that Pope Paul addressed his letter asking for the restitution of the three monasteries to their Abbot Forthred. In view of what is known of the king's masterful way of dealing with the bishop

[1] *Epistola ad Ecgbertum Episcopum*, ed. C. Plummer, *Baedae Opera Historica*, i. 405–23.

[2] Haddan and Stubbs, *Councils*, iii. 394–5.

[3] E.g. to Osbert, 'Nam tempora tribulationis sunt ubique in terra nostra, fide recedente, veritate non fante, malicia crescente et arrogantia inter miserias se addente' (*Epist. Karol. Aevi*, ii. 179).

[4] D. Whitelock, *Anglo-Saxon Poetry and the Historian*, p. 87, and authorities cited in n. 3 on that page.

of Lindisfarne, his violence occasions no surprise, but to judge his action without knowing more facts about the monasteries concerned is risky. Eadberht's reputation as a friend of the Church is good. The year after the pope's letter he resigned his kingdom and withdrew into a monastery. It has been suggested that Bede himself would have approved of Eadberht's action, which was in accord with the policy of reducing the large number of monasteries in the kingdom which Bede advocated in his letter to the archbishop.[1] Ecgberht was certainly aware of the king's action and there is no suggestion that he disapproved of it. The pope had heard only part of the story, that told by the dispossessed abbot. His letter therefore cannot carry much weight in any process set in motion against King Eadberht.

The troubles which followed Eadberht's withdrawal from the world had less effect upon the Church than might have been anticipated. The succession of archbishops of York appears to have been at least adequate. The school of York continued to increase in fame for some years, and under Eadberht, Albert and finally Alcuin achieved its apogee as the acknowledged centre of learning and culture in western Europe. During the reign of Alchred (765–74), a Northumbrian synod sanctioned the mission of Willihad to the Frisians, evidence that missionary zeal had not yet evaporated.[2] Even among the ephemeral kings of these years one at least was found worthy of praise, Alfwold the pious and righteous ruler who was murdered in 788.[3] During his reign the papal legates visited Northumbria. Though they found a good deal to correct, they seem to have been well content with their reception, and themselves provided the explanation of the evils it was their mission to eradicate, 'because, as you know, since the time of Augustine, no Roman priest has been sent hither save ourselves'.[4]

A retrogression there probably had been during the early decades of the eighth century, but it was only temporary, and the sequel gave no cause for pessimism. Towards the end of the century Alcuin assumed the mantle of Jeremiah, and for him the beginning of that moral decline, which inevitably carried disaster

[1] F. M. Stenton, *Anglo-Saxon England*, p. 160, n. 3.
[2] Haddan and Stubbs, *Councils*, iii. 433.
[3] *Historia Regum*, ed. Arnold in *Symeonis Monachi Opera*, ii. 52.
[4] Haddan and Stubbs, *Councils*, iii. 448.

in its train, began during the reign of Alfwold. Certainly the years between 758 and the restoration of King Eardwulf in 810 were marked by a series of political upheavals, and it may readily be admitted that such conditions made the task of the Church more difficult: it is less clear that the Church shared fully in Northumbria's decline as a political power. Alcuin castigated the king and his magnates in a famous letter written at a time when his emotions were violently disturbed by the news of the sack of Lindisfarne, but his letters to Wearmouth, Jarrow, Lindisfarne and York were admonitory rather than condemnatory.[1] He warned them against the dangers of excessive luxury in dress, gluttony and slothfulness, and emphasized the importance of teaching: but he did not accuse them of neglecting their duties nor of over-indulgence. Account must be taken of Alcuin's epistolary style: this manner of writing is typical of the man, and the same tones may be heard in his letters to all his correspondents, not only those in England—in his letters to Abbess Gisela of Chelles, Charlemagne's sister,[2] to Abbot Arnold,[3] and to the monks of Salzburg.[4]

With the return of Eardwulf from exile, political conditions improved once more. Lindisfarne recovered from the devastation of 793.[5] To Higbald *vir strenuus*, who died in 802, succeeded Ecgberht, Hethured, and then Egred. This bishop was a benefactor to his see, especially remembered for the fact that he translated the body of St. Cuthbert to Norham where he had rebuilt the church. He also built a church at Gainford. This is the man of whom we hear in another connection, writing to the archbishop of York to discuss a case of heresy which had occurred in his diocese.[6] The renewal of civil discord in the middle of the century, and the reappearance of kings who despoiled the church of its possessions, brought no termination to the succession of worthy bishops of the see. Egred died in 846, and nothing is recorded of his successor Eanberht, but his successor Eardulf, *vir magni meriti*,

[1] See, for example, his letters to Higbald, (in *Epist. Karol. Aevi*, iii. 181–4), and to Ecgberht (*ibid.*, 166–70).

[2] *Ibid.*, pp. 40–2, 132–3.

[3] *Ibid.*, p. 98.

[4] *Ibid.*, pp. 276–7.

[5] For Lindisfarne, see *Historia Dunelmensis Ecclesiae*, ed. Arnold, *Symeonis Monachi Opera*, pp. 50–4.

[6] Haddan and Stubbs, *Councils*, iii. 615.

was praised for the pastoral solicitude he showed for the distant possessions of his see. This was the bishop who proved his devotion by cherishing and guarding the body of St. Cuthbert during its painful seven-year pilgrimage.

This summary account of the see and monastery of Lindisfarne may be supplemented by the story of its cell at Craike, situated some twelve miles from York. It is related in Ethelwulf's poem, *De Abbatibus*, dedicated to Ecgberht, bishop of Lindisfarne between 802 and 820, and covers the whole span of years between the reign of Aldfrith until the writer's own time.[1]

Its first abbot was a nobleman Eanmund who had been driven to follow the monastic life by Osred of Northumbria, the son of Aldfrith (*ob.* 705). Eanmund was a great benefactor to the monastery, which having received a teacher from Bishop Eadfrid of Lindisfarne soon became a model house.[2] More important for our immediate purpose than Eanmund were his successors, who all maintained his high standard. Eorpwine, 'vitae studiosus amator, sensibus et prudens, et cuncto strenuus actu', and his brother Aldwin,[3]

> Moribus hic verax et verbis omnibus exstat;
> Signifer est clarus, subjectos vocibus hortans,
> Ut sua vota pii trans aethera principes signent.

The fourth Abbot Sygbald built a chapel dedicated to the Virgin which he furnished with precious vessels. To him succeeded his brother Sigmund, a man remarkable for his secret charity to the poor.[4] When he died, Wulfsig the priest was reluctantly persuaded to assume the rule: he was a man devoted to ascetic practices, of great humility and piety.[5] Aethelwulf knew him well. During his time the cell prospered greatly.

The story of Craike bears out the impression derived from that of Lindisfarne. Both are supported by the letters of Abbot Lupus of St. Judoc to Wigmund and the community of York[6] which demonstrate that the reputation and library of that establishment

[1] Aethelwulf, *De Abbatibus*, ed. Arnold in *Symeonis Monachi Opera*, pp. 265–99.
[2] *Ibid.*, *c.* 7 (p. 273).
[3] *Ibid.*, *c.* 13 (pp. 280–1).
[4] *Ibid.*, *cc.* 14, 15 (pp. 281–3).
[5] *Ibid.*, *c.* 18 (p. 285).
[6] Haddan and Stubbs, *Councils*, iii. 634, 635.

was still considerable beyond the confines of England. It is interesting to note, moreover, that Ethelwulf's poem *De Abbatibus* was not his only composition. He wrote as well a poem on the English saints which has not survived. It has also been demonstrated comparatively recently that Northumbrian culture was not obliterated until late in the ninth century.[1] This confirms the impression that the church in Northumbria at the time when the Danes came was still vigorous, and that to speak of decline is to generalize rashly from the evidence of short periods within the hundred and thirty years which followed Bede's death.

Turning to southern England, the political scene in the eighth century is dominated by Ethelbald and Offa, kings of Mercia. Dr. Hunt recognized their generosity to the Church, but of Ethelbald he said that 'in spite of this liberality, which was perhaps evoked by a desire to do what was expected of a great king, his reign was injurious to the interests of religion', and of Offa, 'in spite of his liberality, Offa brought evil on the church'.[2] The correspondence of Boniface and the letter of Pope Zachary [3] demanding reforms prove that before the Synod of 747 there was much that needed correction, but such degeneration can scarcely have occurred in the short time which had elapsed since Bede wrote the last sections of the *Ecclesiastical History*. This may imply that the somewhat idyllic picture he paints there is overdrawn. On the other hand, such evidence as we have suggests that Archbishop Cuthbert made a vigorous effort to reform abuses. At the Synod of Clovesho all the bishops of the southern province were present except Eanfrith of Elmham, and the canons it promulgated covered every aspect of church life. An attempt was made to institute machinery for the enforcement of the canons; the bishops on returning to their dioceses were to instruct their clergy both secular and monastic in the decrees of the synod and order their observance; if they found anything amiss which they could not correct themselves it was to be referred to the archbishop in the provincial synod.[4] Two years later the king declared

[1] K. Sisam, 'Cynewulf and his Poetry', *Proceedings of the British Academy*, xviii (1930), 305–7.

[2] W. Hunt, *A History of the English Church from its Foundation to the Norman Conquest*, pp. 230, 235.

[3] Haddan and Stubbs, *Councils*, iii. 360.

[4] For the Acts of the Council, see *ibid.*, pp. 362–76.

that churches and monasteries should be freed from all public burdens except for bridge-building and the defence of strongholds,[1] thus satisfying one of the most important of Boniface's charges against him.

How far the reforms of these years were implemented it is impossible to say, but the next information we have, a letter from Archbishop Cuthbert to Lull, written after Boniface's martyrdom in 754, shows that the practice of holding provincial synods for the discussion of ecclesiastical affairs was still maintained.[2] Perhaps the year 747 may be regarded as the first year of reform rather than a milestone on the road of progressive decline.

Ethelbald's successor, Offa, has suffered far more from modern historians than from writers nearer his own time. Alcuin's letters are markedly friendly in tone, in sharp contrast to those directed to the king and magnates of Northumbria and to the magnates of Kent. He clearly respected him, his wife Cynethryth and his son Ecgfrith, who appears to have been a model prince;[3] in a letter to Eanbald II of York he refers to Ceolmund, one of Offa's magnates and a frequent witness to his charters, as a mutual friend.[4] To Alcuin, the death of Offa was calamitous. It is of Offa in particular that he must have been thinking when in 797 he lamented 'Et vix aliquis modo . . . ex antiqua regum prosapia inventitur, et tanto incertioris sunt originis, quanto minoris sunt fortitudinis.'[5] Though he rebuked him for his personal vices, he was fully aware of the fact that they were more than balanced by the service he rendered to the Church in establishing and maintaining a firm peace favourable to its mission.[6] Offa's vices too must be regarded in the light of prevailing social conditions, as revealed in the Penitentials of Theodore and Ecgberht, rather than by twentieth-century standards. In his translation of Theodore's

[1] *Ibid.*, p. 386. [2] *Ibid.*, p. 391.

[3] In a letter to Offa he wrote of Ecgfrith, '. . . saluta . . . nobilissimum iuvenem, et diligenter eum in Dei erudi timore; et non pereat spes multorum in eo' (*Epist. Karol. Aevi*, ii. 148). To Ecgfrith he wrote, 'Disce . . . a patre auctoritatem, a matre pietatem; ab illo regere populum per iustitiam . . .' (*ibid.*, p. 105).

[4] *Ibid.*, p. 377; Haddan and Stubbs, *Councils*, iii. 534–6.

[5] *Ibid.*, p. 192; *Councils*, iii. 509–10.

[6] To Osbert, a Mercian magnate, 'Merciorum admoneatis, ut moros bonos et modestos et castos diligenter observent, quos beatae memoriae Offa illis instituit' (*Epist. Karol. Aevi*, ii. 180).

Penitentials, Sir Henry Howorth omitted parts as being not fit to print.[1]

Apart from the letters of Alcuin, there is no evidence to show how Offa was regarded by his contemporaries. A century later Asser denigrated him in an indirect manner when he wrote that his daughter followed the tyrannical habits of the father, but this judgment must be received with reserve, for the marriage of Offa's daughter to Beorhtric of Mercia was the reason for the enforced exile of his hero's grandfather at the court of Charlemagne.[2] In the twelfth century William of Malmesbury found difficulty in making up his mind:

> When I consider the deeds of this person I am doubtful whether I should commend or censure. At one time in the same character, vices were so palliated by virtues, and at another virtues came in such quick succession upon vices, that it is difficult to determine how to characterize the changing Proteus.[3]

To counterbalance the munificence of Offa to St. Alban's, the chronicler waxed indignant at his spoliation of Malmesbury.

The act for which nearly all later historians have condemned Offa was the creation of the archbishopric of Lichfield, and the justice of this condemnation in view of prevailing conditions is dubious. Though largely inspired by political motives, it is by no means clear that it was necessarily detrimental to the Church. Gregory the Great had never intended Canterbury for the metropolitan dignity, but had adapted his plan to conform to the situation obtaining at the end of the sixth century. As that political situation changed, the suitability of Canterbury as the ecclesiastical centre of English Christianity became less apparent. The primacy of Kent was short-lived, and by its geographical position and economic importance it was destined to be the battle-ground for the rivalries of Wessex and Mercia. Internally it was divided, and at a time when co-operation between the lay and ecclesiastical powers was most desirable, to have the metropolitan see situated in that province which particularly resented the

[1] Printed as an appendix to H. Howorth, *The Golden Age of the Anglo-Saxon Church.*

[2] Asser, *De Rebus Gestis Aelfredi*, c. 14 (ed. W. H. Stevenson, pp. 13, 205).

[3] *Gesta Regum*, ed. W. Stubbs (Rolls Series), i. 84.

Mercian supremacy was bad for both. Mercia at this time enjoyed a firm peace, and it seemed as though hegemony had fallen to it for ever. The motives of the people of Kent who reacted against the change were probably as secular as those of Offa himself; their ideal was a Kentish archbishop for a Kentish kingdom. We know little about the manner in which the archbishopric of Lichfield was created, except that assent to it was secured in a stormy synod held in 787.[1] But it may be remarked that Alcuin makes no reference to it in his earlier letters, and later on, when the process was reversed, he shows no great interest. Throughout the dispute his concern is with the effect of the schism on the work of the Church, rather than with the wrong done to Canterbury. He desired the rights of Canterbury to be restored, but pleaded that Hygeberht of Lichfield might be allowed to retain his pallium so long as he lived.[2] It does not appear that he had been outraged by Offa's innovation. If Offa's action was evil, then the pope must be held to share the blame. In a letter to Cenwulf, Leo III pleaded that the creation of Lichfield had been agreed to by Hadrian in the belief that the English clergy were unanimous in wanting it.[3] But the Papal legates who had been in England in 786 had travelled all over England, and had had every opportunity of testing feeling in the country. Hadrian cannot have believed that there was no opposition to the plan: his acquiescence must therefore have been due either to his desire to remain on good terms with Offa at all costs, or because he thought the creation of a third archbishopric in itself desirable.

At all events Offa's action is not evidence of hostility to the Church, or of a cynical indifference to its interests, but of what he probably regarded as political necessity. The kings of Mercia were not the only rulers who found that the archbishopric of Canterbury presented a problem. The dispute between the Mercian kings and the archbishops reached its climax in the second decade of the ninth century, when for a considerable period Cenwulf prevented Archbishop Wulfred exercising his office.[4] But even after the Mercian supremacy had ended, Ecgberht of Wessex appears to have had difficulties with Wulfred, and reconciliation was not

[1] *Anglo-Saxon Chronicle*, a. 785.
[2] *Epist. Karol. Aevi*, ii. 189–91; *Councils*, iii. 518–20.
[3] *Epist. Karol. Aevi*, ii. 187–9; *Councils*, iii. 523–5.
[4] *Councils*, iii. 587–8.

finally achieved until 839.[1] The relations between kings and archbishops in these years were governed by the fact that the archbishop of Canterbury was a great figure in politics. To consider them simply as manifestations of a king's attitude to the Church is to oversimplify and to mislead. Offa's policy had been to incorporate the religious leadership of the country south of the Humber within the kingdom which enjoyed political hegemony: this policy was eventually carried out successfully by the kings of Wessex, by virtue of the fact that their political relations with the Kentish kingdom were more fortunate. The sequel proved salutary for both Church and State, and to condemn Offa as an enemy of the Church for trying to anticipate the course of events is hard.

I have dealt with this question at length, because it appears to be the principal count upon which the charge against Offa rests, and the reason why he has fared so badly at the hands of historians. It is not denied that the long-drawn-out dispute to which it gave rise was detrimental to the Church, but it does not prove that the whole fifty years of Offa's reign were a period of decline, or that Offa's attitude to the Church was purely cynical. It is even possible that the effects of the dispute over Lichfield have been exaggerated. There appears to have been a good deal of conciliar activity in the forty years after the synod of 786,[2] which itself may be regarded rather as evidence of a desire for a well-regulated Church as of a crying need for reform. Of the leaders of the Church during the last half of the eighth century we know little, but such as it is our information provides nothing scandalous. The number of Englishmen who wrote to Lull of Mainz shows the interest which continued to be taken in the German mission even after the death of Boniface. The church had not lapsed into insularity, and contacts with Rome and the continent were manifold. English bishops attended the Council of Frankfurt in 794.[3]

From the synod of Clovesho in 747 until Offa's death, it is reasonable to suppose that the most important factor in the history of English Christianity was the comparative peace which he imposed upon the country. Offa's death, coinciding with revolt in Kent, and followed soon by the accession of Cenwulf in Mercia and the return of Ecgberht to Wessex, created a new situation. Under Cenwulf, Mercia remained the most powerful of the

[1] *Councils*, iii. 617–18. [2] *Ibid.*, iii. 461, g. [3] *Ibid.*, iii. 481.

southern kingdoms, but his power was only a shadow of that of Offa, and at his death the Mercian supremacy was ended, a fact made clear by Ecgberht's victory at Ellandune in 825 and the temporary subjection of Mercia to Wessex. During these years, after a Mercian incursion into East Anglia, the bishoprics of Dunwich and Elmham were reunited once more 'as a result of the poverty of the sees',[1] though it is not clear whether this was directly due to the campaign or to more general causes. The second and third decades of the ninth century was a difficult time, when the quarrel between Wulfred and Cenwulf was most bitter and Wessex was supplanting Mercia. Even so, the picture is not entirely gloomy. Wulfred appears to have been an energetic churchman who not only reformed his own cathedral clergy but who presided over the important council of 816, attended by all the bishops of the southern province.[2]

During the last years of the period the situation improved. Though Mercia was eclipsed by Wessex, it was still a considerable power, and there is no reason to suppose that it was disturbed by civil war or suffered any considerable military defeat. Donations to monasteries and churches continued to be made, and conditions were not such as to impede the work of the clergy. That this was so, and that learning was kept alive, is proved by the fact that it was from western Mercia that King Alfred drew most of his helpers. In Wessex under Ecgberht and Ethelwulf was inaugurated that alliance of kings and churchmen which distinguished the dynasty for two hundred years and was of infinite value to both. Of Egbert's principal advisers, Helmstan of Winchester and Eahlstan of Sherborne, we know little. Eahlstan's military activities would not have commended him to a later age, yet despite them, and despite his part in the conspiracy which deprived Ethelwulf of his kingdom on his return from Rome and relegated him to Kent, Asser says that he faithfully discharged the duties of his see for fifty years.[3] William of Malmesbury speaks favourably of him and calls him 'happy in living for so long in the practice of good works',[4] and his praise is only modified by the fact that he seized Malmesbury for his own uses. That King Ethelwulf desired

[1] William of Malmesbury, *Gesta Pontificum*, ed. N. E. S. A. Hamilton (Rolls Series), p. 148.

[2] *Councils*, iii. 575 and 579–84.

[3] *Op. cit.*, c. 28 (p. 23).

[4] *Gesta Pontificum*, p. 176.

anything more than the welfare of the church his piety and munificence to the church make it impossible to believe. With Swithun bishop of Winchester the ground beneath our feet is firm. He left a reputation for sanctity which far outlived him and was still great one hundred years later. In these years, when internal peace obtained and with Danish raids only sporadic, the Church had much to be grateful for.

It is not the purpose of this paper to pretend that all was well between 735 and 865, but to suggest that the period as a whole has been characterized by evidence drawn mostly from the middle years of Ethelbald's reign and from the early decades of the ninth century. Too much has been made of the so-called 'secularization' of monasteries, which have generally been regarded less from the standpoint of their own time than judged with the eyes of a Benedictine reformer of the tenth century ignorant of the character and history of many of the early foundations. During this period significant advances were made, and when there was retrogression it was less serious than is sometimes supposed. This is certainly true in the spheres of learning and the arts, our knowledge of which has been signally increased of late by the researches of Dr. Sisam, Dr. Kendrick and the late Sir Alfred Clapham.[1] Professor Stenton has remarked that the professions of obedience made in the ninth century by southern bishops to their archbishop, 'as a whole show a competence of expression which cannot easily be reconciled with King Alfred's complaint of the collapse of learning in the generation before his own'.[2] The number of learned men in England can never have been commensurate with their fame. Bede complained of the ignorance of the local clergy and for their use made translations of the Lord's Prayer and the Creed. At the Synod of Clovesho Pope Zachary's letters were read out, 'et in nostra quoque lingua apertius interpretata sunt'. Even at the end of the tenth century, when the church was in a healthier condition than ever before in its history, the upland clergy often knew no Latin. The vernacular homilies of Aelfric and the *Manual* of Byrhtnoth were destined to meet the needs of such men.

The century and a half with which this paper is concerned can boast no spectacular achievement and no outstanding figure.

[1] See Sisam, *op. cit.*; T. D. Kendrick, *Anglo-Saxon Art*; and A. W. Clapham, *English Romanesque Architecture before the Conquest*.

[2] *Anglo-Saxon England*, p. 226.

Nevertheless, a good deal was done to consolidate the work of the saints of the conversion epoch. The number of local churches steadily increased; Egbert's Pontificale and the second chapter of the Council of 816 lay down the procedure to be followed in the consecration of churches. Although specific instances are hard to come by, we know that Egred of Lindisfarne built a church at Gainford and rebuilt that at Norham, and that Swithun left a great reputation as a builder of churches. The practice by which bishops made a profession of obedience to Canterbury before assuming their office reflects a closer-knit organization than had before obtained. This was reinforced by the numerous synods of the ninth century up to the time of invasion; to judge them solely by their surviving memorials, principally concerned with disputes over property, would be grossly unreal. Of the personnel of the higher clergy we know almost nothing, but such as it is our knowledge provides no reason to judge them harshly. Political conditions were, on the whole, more favourable to the Church than is sometimes assumed. The Danish invasion was a catastrophe and a challenge. By its disruption of the organization of the Church over much of England, the supply of clergy was endangered; by its destruction of the greatest of the monasteries, the most impressive monuments of Christianity were annihilated. But because by the third quarter of the ninth century Christianity was firmly rooted in the social order of England the challenge was answered, the conquerors rapidly converted, and a very real danger was not allowed to materialize. Much of the credit for this considerable achievement must surely be given to the men who had been engaged upon the work of the Church in the years before invasion.

FLORENCE AND THE DESPOTS
SOME ASPECTS OF FLORENTINE DIPLOMACY IN THE FOURTEENTH CENTURY

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DURING the fourteenth century, Florence was one of the main centres of the republican regime in Italy, and the Florentines were increasingly aware of this position in a country which had come to a large extent under the sway of the Signoria. Florence herself had, on two occasions during the first half of the century, direct experience of the new regime: in a moderate form during the rule of the duke of Calabria (1325–8), and in its full strength during the short-lived Signoria of the duke of Athens (1342–3)[1]. The reaction in favour of the traditional communal form of government had been vigorous in both cases, but particularly so after the expulsion of the duke of Athens. The shock which the Florentines received from the events of 1342–3 helped to strengthen their loyalty to their traditional institutions and liberties for a long time to come.

Florentine liberty is praised over and over again in Florentine literature, but particularly after 1343. 'God has granted you, citizens', says a Florentine model speech written after the expulsion of the duke of Athens, 'to recover sacred liberty, a gift to be desired above everything else.'[2] Giovanni da Prato calls Florence a 'fountain-head of freedom',[3] and Domenico Bandini describes

[1] The 'Signoria' of King Robert of Naples (1313–22) was more in the nature of a protectorate; cf. R. Davidsohn, *Geschichte von Florenz*, iii (Berlin, 1912), p. 531.

[2] 'Diceria fatta per un Fiorentino . . .', ed. A. Ceruti, *Propugnatore*, ii [ii] (1869), 101: 'santissima libertà'.

[3] 'Canzone morale di patria e di libertate', in Giovanni da Prato, *Il Paradiso degli Alberti*, ed. A. Wesselofsky, i [ii] (Bologna, 1867), no. 27, p. 438. Cf. A. Medin, 'I Visconti nella poesia contemporanea', *Arch. Stor. Lomb.*, xviii (1891), 784–5.

her as 'italice libertatis mater'.[1] In his short description of the Florentine constitution, probably written in the thirties of the fifteenth century, Leonardo Bruni says: 'One of the democratic characteristics of our constitution is that we worship freedom more than anything else, as the end and goal of our commonwealth.'[2]

At the same time, Florentines frequently expressed their dislike of, and opposition to, the Signoria, although individual Signori might receive appreciation. 'Their criminal actions always fight and often crush the virtues of the good . . . they destroy the wealth of their subjects; they are the enemies of those among them who are growing in wisdom and magnanimity . . .' says Matteo Villani of the despots, with obvious reference to the Visconti.[3] And Giovanni da Prato puts it more crudely, but concisely, when he exclaims against Giangaleazzo Visconti: 'Death to the tyrant . . . and long live freedom!'[4]

To what extent did these republican ideas affect the foreign policy of Florence, and in particular her relations with the Signori? This is the principal subject of the present paper, which will be confined roughly to the period from the death of the duke of Calabria in 1328 to the outbreak of the first war between Florence and Giangaleazzo Visconti in 1390.

Despite the republican views of the Florentines, Florence was of course quite willing to conclude treaties and alliances with Signori, and sometimes with one Signore against another, and she could be on excellent terms with individual rulers. The complexities of the political conditions of fourteenth-century Italy would have made it very difficult for her to take up any other attitude. A few examples may serve to illustrate this point.

In 1332, Florence formed a league with the leading despots of

[1] *Fons memorabilium*, i, Florence, Bibl. Laurenziana, MS. Aed. 170, fo. 262r.

[2] *Περὶ τῆς πολιτείας τῶν φλωρεντίνων*, ed. L. W. Hasper (Leipzig 1861), pp. 14–15, and G. Iorio, *Rivista Abruzzese . . . di Teramo*, x (1895), 542–3; for the date, *ibid.*, pp. 491–2 (*c.* 1439).

[3] *Cronica*, ed. F. G. Dragomanni (Florence, 1846), vi. 1.

[4] *Op. cit.*, p. 439.

northern Italy against John of Bohemia.[1] In 1336, she negotiated with Mastino della Scala for the purchase of Lucca, and after the failure of these negotiations concluded an alliance with Venice, as well as alliances in 1337 with the Signori of Milan, Ferrara, and Mantua and with Marsilio da Carrara of Padua, against the Della Scala.[2] After the peace of 1339, renewed negotiations with Mastino led in 1341 to the sale of Lucca, and to an alliance with the Della Scala, to come into force upon the transfer of that town to Florence.[3] It was not Mastino's fault that the Pisans attacked Lucca; and in November of the same year (1341), the Florentines allied for ten years with the Signori of Verona, Bologna, and Ferrara against their common enemies.[4] In 1350 and 1351, the Florentines were making considerable, though unsuccessful, efforts to induce the Lombard Signori to join a Tuscan League against Giovanni Visconti.[5] This was the time when the Companies were becoming a major problem in Italian politics, and we find Florence in leagues with Signori against them.[6]

[1] J. Ficker, *Urkunden zur Geschichte des Roemerzuges Kaiser Ludwigs des Bayern* (Innsbruck, 1865), pp. 152–4.

[2] The treaty with the Visconti, etc., in Muratori, *Antichità Estensi*, ii (Modena, 1740), 98–102; with Marsilio da Carrara in V. Lazzarini, 'Storia di un trattato tra Venezia, Firenze e i Carraresi', *N. Arch. Ven.*, xviii (1899), no. 1, pp. 273–9. Cf. C. Cipolla, *Storia delle Signorie italiane dal 1313 al 1530* (Milan, 1881), pp. 66 ff.

[3] *I Capitoli del Comune di Firenze*, ed. C. Guasti, ii (Florence, 1893), 280–1.

[4] *Documenti storici del sec. XIV estratti dal R. Archivio di Stato fiorentino*, ed. A. Pepoli (Florence, 1884), no. 1, pp. 3–12 (21 Nov. 1341). Cf. R. Caggese, *Roberto d'Angiò*, ii (Florence, 1930), 272. The Pisans held Lucca from 1342 to 1369.

[5] Cf. A. Sorbelli, *La Signoria di Giovanni Visconti a Bologna* (Bologna, 1901), pp. 43 and 101, no. 34, p. 375. F. Baldasseroni, 'La guerra tra Firenze e Giovanni Visconti', *Studi Storici*, xi (1902), 366–7. Instructions to Florentine embassy, 16 Nov. 1350 (G. Canestrini, 'Alcuni documenti risguardanti le relazioni politiche dei Papi d'Avignone coi Comuni d'Italia', *Arch. Stor. Ital.*, App. vii (1849), no. 37, pp. 380–2): 'ragionino come il nostro comune ha sentito . . . ch'e signori di Lombardia . . . sono desiderosi di venire a lega co' comuni di Toscana; et a noi parrebbe utile che la lega si facesse co' predecti . . .' In a letter of 5 Aug. 1351, the Florentines ask the lords of Verona, Ferrara, and Ravenna to ally with them against Giovanni Visconti, 'dominus suis limitibus non contentus'. Their argument is interesting: 'agitur enim res vestra dum potenter resistimus illi qui singulos cupit viribus facere se minores . . .' (Florence, Archivio di Stato, Signori, 1ª Cancelleria, Missive, Reg. X, fo. 90v., to be quoted henceforth as Missive.)

[6] Cf. e.g. M. Villani, *Cronica*, ix. 20, on the common action in 1359 with

The war between Florence and Gregory XI which began in 1375 saw Bernabò Visconti on the side of Florence,[1] apprehensive of the territorial policy of the Papacy, which had achieved such great successes.[2] Yet Florence had previously fought the lord of Milan for reasons which were ultimately similar to those for which it now fought the Papacy, and could have no illusions, after the events of 1369–70, about his ambitions in Tuscany.[3]

At times, the Florentines took special pains to profess friendship for individual Signori. Thus in a letter to Obizzo III in 1341, they stressed their ancient friendship with the Este family[4]; they wanted Obizzo's assistance against Pisa. In 1360, they assured Bernabò Visconti that they 'would consider his dangers their own', and in 1375, after the conclusion of their alliance with him, they wrote to him: 'your state and our state are the same to such an extent, that the ruin of one would mean the downfall of the other . . .'[5] They wished to appear on the best of terms with individual Signori whenever Florentine interests seemed to demand

Bernabò and other Signori against the Great Company. Missive XII, fos. 64 ff. (1359), contains copies of letters and commissions of embassies to Signori, to secure help against the Company. On Bernabò's project of an Italian league against the Companies in 1380–1, cf. F. Landogna, *La politica dei Visconti in Toscana* (Milan, 1929), pp. 41 ff. Thus the league of August 1385 with Giangaleazzo Visconti was directed against the Companies (G. Collino, 'La politica fiorentino-bolognese dall' avvento al principato del Conte di Virtù . . .', *Accad. d. Scienze Torino, Memorie*, 2nd ser., liv (1904), 132 ff., nos. 56 ff., pp. 164 ff.), and the league of October 1389 contained provisions against the mercenaries (see below, p. 39, n. 4).

[1] On the treaty of July 1375, cf. the letter to Pisa and other Tuscan towns in A. Gherardi, 'La guerra dei Fiorentini contro Papa Gregorio XI', *Arch. Stor. Ital.*, 3rd ser., vi [i] (1867), no. 14, p. 219. On the face of it, the alliance was aimed at the Company of John Hawkwood. Cf. below, p. 38, n. 5.

[2] Bernabò did not, however, prove an enthusiastic ally; cf. L. Mirot, *La politique pontificale et le retour du Saint-Siège à Rome en 1376* (1899), p. 85. On Florentine apprehensions cf. *ibid.*, pp. 25 ff. Cf. also E. Dupré-Theseider, 'La rivolta di Perugia nel 1375 . . .', *Boll. Dep. di storia patria per l'Umbria*, xxxv (1938), 101 ff.

[3] See below, p. 37.

[4] Missive VI, fo. 86v. (10 Aug. 1341). Similar letters to Taddeo Pepoli and Giovanni and Luchino Visconti, *ib.*, fos. 86r–87r.

[5] Missive XII, fo. 136r. (9 July 1360); XV, fo. 12v. (9 Oct. 1375). Cf. the commission of embassy to Bernabò's son Ambrogio, Missive XIII, fo. 66r. (19 Sept. 1365): 'direte che'l suo padre e lui reputiamo singulari amici e che sempre . . . gli abbiamo reputati singulari amici e benivoli del comune nostro . . .'

it. Sometimes, however, it must have taxed the abilities of the Florentine chancellors and ambassadors rather highly to make such professions of friendship appear wholly genuine. Thus in 1388, at a time when the Florentines had already deep suspicions as to Giangaleazzo Visconti's progress and intentions, the *X di Balìa* instructed an envoy to the Visconti to 'show the said lord the good and excellent disposition we have towards him . . ., reminding him of the great friendship we had with his late father and then with him . . .'[1] It was perhaps not superfluous to add that he should make special oratorical efforts: 'you should attempt to prove this to him with all the reasons and arguments you can think of . . .'[2]

If the Florentines considered it at times useful to stress their friendship for individual Signori,[3] in the ordinary diplomatic relations with Signori they naturally followed the customary standards of courtesy which obtained at that time in chanceries and on embassies, and they adhered to them even at times when relations were strained[4] and when rather more outspoken words might be said in council meetings or in letters to friendly powers. Even so, politeness and flattery seem sometimes to have been carried rather far. When in a letter to Bartolomeo and Antonio della Scala after the death of their father, the Florentines wrote

[1] Florence, Archivio di Stato, X di Balìa, Legaz. e Comm., Reg. I. 74 (April 1388): 'poi verrete a mostrare al detto Signore la buona e optima dispositione nostra verso la sua Signoria . . . Ricordando la grande amicicia che tenemmo colla buona memoria del suo padre e poi con lui . . .'

[2] 'Ingegnandovi questo mostrargli con tutte le ragioni e dimostrationi che saprete . . .' Florentine ambassadors were sometimes asked to use their powers of persuasion in support of their missions; cf. e.g. Missive XI, fo. 57v. (11 Nov. 1353): 'Nelle predecte cose usando quella matura prolatione di parole inductive che vederanno che si convegna si a l'onore del comune e si a l'effecto di quello che si dimanda.' Cf. also the protestations of friendship for Giangaleazzo Visconti in the letter to Giangaleazzo's secretary Nicoletto Diversi of 12 June 1388, in G. Collino, 'La preparazione della guerra veneto-viscontea contro i Carraresi', *Arch. Stor. Lomb.*, xxxiv [ii] (1907), 275, n. 4.

[3] *Vice versa*, they would also emphasize the friendship of individual Signori for Florence; thus in 1359 they write to Bernabò: 'Agnoscentes magnificientie vestre erga commune nostrum sinceros affectus . . .' (Missive XII, fo. 87r: 2 May 1359.)

[4] The Signori, in their turn, did not act differently towards the Florentines; cf. the letter to Diversi of 12 June 1388 (Collino, *op. cit.*, p. 275, n. 4): 'Recepimus litteras vestras per quas veram dilectionem exprimitis, quam magnificus . . . comes Virtutum ad nos et populum nostrum habet.'

> May there be fraternal concord among you, so that your power may constantly grow stronger. You have asked us to help you preserve it, and we offer to do so by deeds rather than by words . . .,[1]

this may reflect the genuine concern for the preservation of minor northern Signorie against the Visconti. When, on the other hand, they congratulated Giangaleazzo on the birth of a son in 1388, they seem to go beyond what was strictly necessary in praising the benevolent rule and popularity of the lord of Milan:

> How sad it was, the letter says, to see so many cities, so many townships, so many peoples and so large a part of Italy, happy through the benevolence of their lord, silently sigh because you had no sons, and because the sceptre, which they wished to remain in your and your offspring's hands for ever, depended on one man . . .[2]

But shortly after, it was argued in Florence that no league should be concluded with Giangaleazzo, because this would deprive his subjects of all hope: 'they will remain without any expectation of freedom, and one may say they will be crushed'.[3] In the following year, 1390, on the outbreak of the war with Milan, these sentiments would come into the open. Now Giangaleazzo is branded as an oppressive tyrant; and the letter 'to the Italians' of 25 May, indicting Giangaleazzo's actions, expresses the wish that the

[1] 'Sit inter vos fraterna concordia, ut vester status de bono in melius dirigatur, ad cuius conservationem nos et posse nostrum requirite, quod vobis magis realiter quam verbis offerimus . . .' (Missive XVI, fo. 37v.: 25 Oct. 1375.) Cf. also the letter of condolence to Antonio della Scala on the death of his brother, Missive XIX, fo. 152r. (22 July 1381).

[2] G. Collino, 'La guerra veneto-viscontea contro i Carraresi', *Arch. Stor. Lomb.*, xxxvi [i] (1909), 316, n. 1. Cf. also the letters of congratulation on occasion of Giangaleazzo's victory over Antonio della Scala in 1387, in Collino, 'La guerra viscontea contro gli Scaligeri', *ibid.*, xxxiv [i] (1907), 139, n. 3.

[3] '. . . facciendo questa lega . . . popoli suoi, ancora se fussono punto sollevati, rimarranno al tutto senza aspetto d'alcuna libertà, e puossi dire seranno sotterrati' (Florence, Archivio di Stato, Consulte e Pratiche, Reg. XXVII, fo. 3r.). Fos. 1–4 contain a remarkable summary, in Salutati's writing, of the arguments for and against a league with Giangaleazzo referring to the negotiations in 1389; see below, pp. 43–4.

tyrants 'alone may not love without suspicion. May they fear their friends and retinue more than their enemies and foreigners.'[1]

A speaker in the first *Pratica* to meet after the official confirmation of Giangaleazzo's victory over the Della Scala in 1387, not only expresses the very genuine apprehensions felt at Florence, but also the conviction that diplomatic appearances must be kept up. His words thus reflect a state of things which was characteristic of Florentine diplomacy toward the Signori:

> although it is not safe to have too powerful a lord in one's neighbourhood, only satisfaction should be shown at the victory of the count of Virtù . . . But it is advisable to think about our security (*bonum statum*) and the preservation of liberty . . .[2]

One may wonder whether the Florentines, steeped in the republican traditions of their town, always accepted alliances with despots without comment. There are indications that this was not always the case. After describing the conclusion of the league of 1332 between Florence and the Lombard Signori against John of Bohemia,[3] Giovanni Villani goes on: 'And note, reader, a new historical change: King Robert, the head of the Guelf party, and the Commune of Florence concluding a league with the greatest tyrants and Ghibellines of Italy . . .'[4] And as late as 1359 or after, Matteo Villani finds the co-operation between Florence and the Lombard Signori against the Company of the count of Landau sufficiently remarkable to express his surprise, particularly as the other Tuscan communes did not join:

> and it was strange to see the tyrants, who by nature are usually the enemies and oppressors of the peoples that wish to live in

[1] 'Possint ipsi soli cum suspitione diligere. Sit ipsorum magis amicos atque domesticos quam hostes et extraneos formidare . . .' (Missive XXII, fo. 67r.). This famous letter ('Italicis') is printed in G. Lami, *Deliciae Eruditorum*, xvi (Florence, 1754), pp. lxxxvii–xcv.

[2] 27 Oct. 1387. Collino, *Arch. Stor. Lomb.*, xxxiv [i], 141, n. 4. See above, p. 25, n. 1.

[3] See above, p. 23, n. 1. The league was joined by King Robert of Naples; Caggese, *op. cit.*, p. 155.

[4] *Cronica*, ed. *cit.* (Florence, 1844–5), x. 201.

> freedom . . . loyally help our commune, which more than any other Italian commune has always resisted the tyrants and has defeated many of them . . .[1]

But there could hardly be a more concise and forceful expression of the critical attitude toward alliances with Signori than the following words from an official document, a commission of an embassy to Bologna in 1389: 'free peoples do not go well together with the tyrants'.[2]

In fact, despite the general policy of making alliances with Signori when it suited the interests of Florence, opposition to Signori as such is not entirely absent from her diplomatic records. Thus, when after the death of Castruccio Castracani and the departure of Lewis the Bavarian from Pisa, Florence concluded peace with that town in 1329, one of the clauses of the treaty stipulated that neither of the contracting parties was allowed to send for, or to elect anybody as Signore.[3] The Signoria of the duke of Calabria had come to an end in Florence only in the previous year, and had been followed by a strong anti-despotic reaction.[4]

In 1341, the Florentines write to King Robert of Naples that Prato was liable to come under a despotic regime, and such tyranny, they add, 'we could not tolerate with equanimity, for, as Your Majesty knows, we who abominate tyrants in distant parts, could by no means bear to have them in closest vicinity'.[5] It was, incidentally, not the first time that the Florentines had expressed sentiments of this kind to King Robert; the year before they had complained to him about the establishment of a Signoria

[1] *Ibid.*, ix. 20.

[2] 'Popoli liberi co'tiranni non stanno insieme', X di Balìa, Comm., I, fo. 200 (15 July 1389), in P. Silva, 'Il governo di Pietro Gambacorta in Pisa . . .', *Annali d. Scuola Normale di Pisa*, xxiii (1912), no. 21, p. 327. The ambassadors were to discuss the question of the league with Giangaleazzo; see below, pp. 43–4.

[3] F. Dal Borgo, *Diplomi pisani*, iii (Pisa, 1765), 363, and Ficker, *op. cit.*, no. 290, p. 143 (12 Aug. 1329). On the treaty, cf. R. Davidsohn, *op. cit.*, 877. A number of other Tuscan towns were included in the peace.

[4] G. degli Azzi, 'La dimora di Carlo, Duca di Calabria, a Firenze', *Arch. Stor. Ital.*, 5th ser., xlii (1908), 272–3. Davidsohn, *op. cit.*, p. 862.

[5] 'Tirannos moleste patimur in longinquis nedum possimus iuxta nostrorum cordium viscera substinere' (24 Feb. 1341), cit. by Caggese, *op. cit.*, p. 259, n. 1.

by Ottaviano Belforti at Volterra,[1] since 'the whole of Tuscany had been shaken by it'.[2]

In periods of open conflict with Signori, the Chancery was naturally inclined to give free rein to Florentine republicanism, although caution might be necessary in order not to hurt the feelings of friendly or neutral lords. Before the appointment of Coluccio Salutati, when the official correspondence of Florence came under the influence of humanist rhetoric, the chancellors limited themselves on the whole to describing enemy Signori as tyrants, but this term had lost, in the course of the fourteenth century, much of its traditional meaning in Italy; it could even be used simply as an equivalent of Signore.[3] For the Florentine republicans, however, it retained much of its hostile significance. In the official correspondence, Signori are usually described as *dominus*, *dominator*, etc. But when the Florentines were in an aggressive mood, the *dominus* became easily a *tyrannus*, and this was particularly the case in times of war.[4] The chancery was then at liberty to conform to common Florentine usage, as it was reflected in contemporary literature.

If anti-despotic feelings were not absent from the diplomatic records of Florence, and were stressed during periods of open conflict with Signori, the praise of freedom, and the determination to defend it, can be found in them over and over again. 'Ad tuendam libertatem' and similar expressions are used almost as technical terms of Florentine politics and diplomacy.[5] But what was the precise meaning of *libertas*?

In contemporary Florentine usage, it ranged from political independence to republican self-government. As far as Florence and the other free Tuscan republics were concerned, the two

[1] Cf. G. Villani, xi. 116. G. Volpe, *Volterra* (Florence, 1923), pp. 199–200.

[2] 24 Oct. 1340 (Caggese, p. 256, n. 1). The Florentines ask Robert to intervene, 'ne Vulterranum flagitium in pessimum deducatur exemplum'; Missive V, fo. 77v.

[3] The question will be discussed in a separate article.

[4] A good example of the respective use of *dominus* and *tyrannus* is provided by the following commission of 15 Sept. 1352 for an embassy to Charles IV: 'dominos Lombardie et Romandiole, excepto tyranno Mediolanensi' (Baldasseroni, *op. cit.*, xii (1903), no. 13, p. 92).

[5] E.g. Consulte e Pratiche, *cit.*, I, fos. 26r., 27r, 105r., 119v. and *passim*. Missive XXII, fo. 59v. (2 May 1390): 'pro libertatis nostre defensione . . . arma movemus'. Quotations could be easily multiplied.

coincided, for here political immunity went hand in hand with communal self-government. The full liberties of a free and independent city necessarily included the right to choose its own form of government, and if independent government and freedom, 'than which nothing is more precious and more acceptable to mortal beings',[1] was desirable from outside powers, so was liberty at home.

Libertas, *libertà*, could thus be contrasted with subjection and serfdom at the hands of other powers. It was in this sense that the Florentines sent a banner with the inscription *Libertas* to towns of the Papal States during the war with Gregory XI.[2] It was to herald the rising against Papal rule, and in fact, as Stefani says, the Florentines did not mind if 'some petty tyrant came back, as long as the town was taken away from the Church'.[3] Even so, the inscription was capable of wider interpretation, for at the beginning of the following century the chronicler Goro Dati says in general terms: 'with this banner . . . they incited the peoples of the towns against the tyrants and to govern themselves in freedom'.[4] In fact, *libertas* could also be contrasted with tyranny, and the Florentines did not tire of so doing.[5] The contrast between Florentine *libertà* and Lombard tyranny could not have been put more forcibly than in the words of Coluccio Salutati, in a Florentine letter to Genoa at the beginning of the first war with Giangaleazzo: 'this war is one between tyranny and liberty'.[6] To

[1] Missive XI, fo. 49v. (7 Sept. 1353), instruction for embassy to Genoa, on the eve of her submission to the Visconti: 'Signoria e libertà, delle quali a mortali niuna cosa è più cara nè più accepta'.

[2] Cf. F. T. Perrens, *Histoire de Florence*, v (1883), pp. 115–16. It was given to the troops sent to the assistance of towns which had rebelled against the Papacy. During the conflict with the Papacy, the defence of *libertas* assumed also a 'national' anti-French meaning in Florentine propaganda; cf. e.g. Gherardi, *op. cit.*, vi [ii], (1867), no. 99, p. 251; vii [i], (1868), no. 125, p. 219.

[3] *Cronaca fiorentina*, ed. N. Rodolico, *Rer. It. Script.*, xxx, rubr. 753. Thus the Florentines hailed the Prefetto di Vico as liberator when Viterbo rebelled under him against the Pope at the end of 1375. Cf. Gherardi, *op. cit.*, vi, no. 99, p. 251.

[4] *Istoria di Firenze*, ed. L. Pratesi (Norcia, 1904), pp. 134–5. On the date of its composition, p. xiii, n. 2.

[5] Cf. e.g. M. Villani, iii. 1, viii. 24, ix. 20, xi. 1; Giovanni da Prato, cited above, p. 21.

[6] Missive XXII, fo. 65v. (28 May 1390): '. . . cum hoc bellum sit inter tirannidem et libertatem'.

become subject to a foreign Signore meant to lose freedom in both ways, and for the Florentines of the fourteenth century, the 'protection of our liberty' clearly denoted these wider implications. Thus they write to Giangaleazzo in May 1390: 'we are taking up arms for the defence of our freedom, and for the freedom of the peoples which are oppressed by so heavy a yoke',[1] and at the end of that month, in the great manifesto to Italy, they affirm that Florence 'not only cultivates freedom at home, but also preserves it abroad'.[2]

A formula which appears constantly in the Florentine records of this period is 'stato popolare, Guelfo e libero', or some similar expression. The term currently used to describe free communes is 'vivono in (or a) libertà', they live in freedom. To live in freedom, and under a regime based on the *Popolo* and the Guelf party, represents a political programme of which Florence considered herself the leading champion.[3] The free communes and the Signorie thus come to form two different and opposed camps.[4] The difference in political regime follows, moreover, a geographical pattern. For while the Signoria is characteristic of Italy north of the Apennines, nearly all the surviving republics belong to Tuscany. Accordingly, the Florentines would generically refer to the 'Tuscan communes which live in freedom'.[5]

On two occasions, Matteo Villani enlarges upon the question of the 'libertà Toscana', and his remarks are not without interest. For Matteo, the 'Tuscan liberty' is the offshoot of the ancient 'libertà Romana', which has in this way survived in Tuscany. 'Florence, Perugia and Siena', he says,[6] 'have maintained the

[1] Missive XXII, fo. 59v. (2 May 1390): 'pro libertatis nostre defensione, ac libertate populorum, quos tam grave iugum opprimit, arma movemus'.

[2] Missive XXII, fo. 66v. (25 May 1390): '. . . non solum domi libertatis cultrix, sed etiam extra nostros terminos conservatrix'.

[3] Cf. above, pp. 21–2.

[4] Cf. e.g. M. Villani, xi. 1: 'non solo i popoli che vivono in libertà, ma quelli che sottoposti sono al crudelissimo giogo della tirannia'.

[5] Cf. e.g. instructions for embassy to Perugia, 13 April 1358: the Perugians should cease hostilities against Siena 'sì che non sieno cagione del guastamento de' Toscani Comuni che vivono in libertà' (G. Degli Azzi Vitteleschi, 'Le relazioni tra la Repubblica di Firenze e l'Umbria . . .' *Boll. Dep. di st. p. per l'Umbria*, x, App. i (1904), no. 276, p. 82). The Florentines considered Perugia one of the great Tuscan communes.

[6] iii. 1. This Roman liberty is contrasted with 'tirannesche suggezioni di popoli'.

franchise and freedom left to them by the ancient Romans'; and elsewhere he speaks of the 'ancient freedom left as a legacy' by the Romans to the communes of Tuscany.[1] The Tuscan liberty was of exalted lineage, just as Florence herself, according to Florentine tradition, was the 'daughter of Rome', the 'little Rome'.[2]

This concept of the political affinity between Tuscan communes is well expressed in a letter written to Siena in 1390: the Sienese should remember, it says, 'that we are similar not only because of our proximity to each other, but also because of the identity of our constitution and our concern for freedom'.[3]

If freedom was considered a characteristic of that region, so was the prevalence of the Guelf party. Indeed, the two were so closely connected in contemporary Florentine thought that Matteo Villani could say, with some exaggeration, in a famous passage that

> the Guelf party . . . is opposed to all the Signorie; thus if a Guelf becomes a despot, he must, of necessity, become a Ghibelline . . . so that it is greatly to the advantage of our commune to maintain and strengthen the Guelf party.[4]

Florence expressed time and again her determination to defend the 'freedom of the Tuscan communes'; and it was for the protection of it that she invoked the help of other Tuscan republics.[5] Florence, says a commission of 1365, is 'prepared to do those things which are known to be advantageous and useful for the preservation of the government, tranquillity and freedom of the communes of Tuscany'.[6]

[1] iv. 77. In this passage, *libertà* is used in the sense of independence and sovereignty, in face of the Empire, on the lines of Bartolus' commentary on *Dig. Nov.*, ii (D. xlviii, 1. 7): 'dicerem cum quaelibet civitas Italiae hodie, et praecipue in Tuscia, dominum non recognoscat, in se ipsa habet liberum populum . . .'

[2] N. Rubinstein, 'The beginnings of political thought in Florence', *Journal of the Warburg and Courtauld Institutes*, v (1942), 201, 212 ff., 217.

[3] Missive XXII, fos. 51v. (11 April 1390): 'Nos esse vobis non solum vicinitate situs, sed identitate regiminis, ac studio libertatis, et similes et conformes.'

[4] viii. 24.

[5] E.g. commission for Pisa, 20 June 1354: a league is to be concluded to 'torre l'appetito a ogni signore o comune o altra persona ch'avesse appetito di guastare o d'oppressare lo stato libero di Toscana' (Missive XI, fo. 91v.).

[6] Missive XIII, fo. 26v. (commission for Siena, 21 Jan. 1365): Florence is 'disposto affare quelle cose, che si cognoscano essere salutevili e utili a conservare lo stato, riposo, e libertà de' comuni di Tos chana . . .'

In a letter to Robert of Naples, which has already been mentioned, the Florentines state their dislike for despots in their close vicinity.[1] There is no reason to doubt the genuineness of statements of this kind, although the Florentines were quite prepared to forget about them if it suited their purposes, as in the case of the pro-Florentine signore of Pisa, Pietro Gambacorta (1370–92).[2] But the weakest point in their position as protector of the liberty of Tuscan towns was their own territorial policy. It presented opportunities for intervention from outside Tuscany and it must sometimes have made Florentine declarations appear to be of doubtful sincerity, particularly in the case of towns over which Florence had gained control.

A recurring Florentine argument is that such towns had been liberated, or protected, from tyranny. In 1361, Florence had intervened in Volterra, had put an end to the Signoria of the Belforti, and had obtained the custody of the fortress.[3] About four years later, the citizens of that town decided to have chains in their streets; the Florentines thought this quite superfluous and sent an embassy to Volterra to say: 'we are prepared to use all our power . . . to preserve their freedom and the peaceful state of the town'.[4] In a letter of 1385, they explained to the Volterrans the origins of their *superioritas* over that town, where their position had in the meantime been strengthened[5]: 'we know that our predecessors took your town under the protection of our commune, at a time when it was shaken by the discords of tyrants, and when it was not only certain of its serfdom, but also longing for freedom'.[6]

[1] See above, p. 28. The letter referred to the disorders at Prato in 1341; although they were hardly the only motive of the Florentine request that the custody of that town should be entrusted to them, the Florentines were clearly perturbed at the situation in the neighbouring town and afraid of the consequences. Florence bought Prato in 1351 from Queen Joanna, on the eve of the war with Giovanni Visconti (Villani, i. 73.)

[2] Cf. Silva, *op. cit.*, pp. 34 ff., 74, 289.

[3] M. Villani, x. 67. Cf. L. Cecina, *Notizie istoriche della città di Volterra* (Pisa, 1758), pp. 163 ff.

[4] Missive XIII, fo. 37v. (29 March 1365): 'essendo noi per conservatione dello stato popolare libero e guelfo di Volterra disposti di mectere tutto nostro podere in conservatione de la loro liberta, e stato pacificho di quella citta, de la quale per affectione amichevole non minore cura avremo, che del nostro proprio . . .'

[5] Cecina, *op. cit.*, pp. 175 ff.; *Capitoli di Firenze*, ii. 330–3.

[6] Missive XX, fo. 138r. (14 Dec. 1385): 'Scimus et maiores nostros urbem

The fluctuations and intricacies of Florentine policy in this question are well reflected in her attempts to acquire Lucca. In 1336, the Florentines concluded an alliance with Venice against the Della Scala, after their failure to induce the latter to hand over Lucca, which had been assigned to them in the league of 1332.[1] In the treaty with Venice, it is assumed that Lucca, once acquired by treaty or defeated by the allies, would 'come under a communal government'.[2] In the following year, a new league is concluded between Florence and Venice on one side and a number of Lombard Signori on the other.[3] In this new treaty it is stipulated that Lucca is to become a Florentine possession, that Florence should have it 'ad suam gubernationem, dominium, et regimen'.[4] But later on, Florence returns to her original position and states that once Lucca is acquired she would restore to her 'the ancient commune', after 'the dire tyranny to which she had been subjected'.[5] Indeed, she had been under successive tyrannies—'continuo ambulante de tirapnide in tirapnidem'.[6] Florence failed to establish her authority in Lucca and lost it to Pisa; so it is impossible to say to what extent she would have ultimately carried out her promises.

However much the preservation from despotism may have been used to justify Florentine expansion, it was clearly Florence's

vestram tunc sub tirannorum discordia fluctuantem, non minus servitutis certam, quam avidam libertatis, in nostri communis protectionem, libertatis donande vobis gratia suscepisse . . .' Cf. also the arenga of the treaty of 1361: 'Quia maius est conservare quam querere libertatem, circa ipsius perseverantiam maiori diligentia convenit, ne intolerabilior tirannidis per recidivam incumberet, vigilare.'

[1] Cf. above, pp. 22–3.

[2] 'Veniret ad comunem statum, et in liga cum Comunibus Venetiarum et Florentie . . .' (L. Simeoni, 'Le origini della guerra veneto-fiorentino-scaligera (1336–9)', *Memorie d. Accad. d. Scienze Bologna*, 3rd ser., iv (1929–30) no. 17, p. 64.)

[3] Cf. above, p. 23.

[4] Muratori, *Ant. Est.*, ii. 100. To be on the safe side, the respective article in the original treaty between Florence and Venice was modified accordingly before the conclusion of the new league; Simeoni, *op. cit.*, no. 18, pp. 64–5.

[5] Missive V, fo. 24r. (27 Aug 1341): 'ut civitatem Lucanam diu suppositam dire tirampnidi . . . reduceremus ad communitatem et unitatem antiquam et solitam.'

[6] *Ibid.*, fo. 26v.

policy during the fourteenth century[1] to safeguard, and where necessary to restore, the communal regime in the Tuscan towns that had come under her control. The towns which had placed themselves under her protection or custody[2] were, in fact, left a considerable measure of autonomy and much more than a semblance of their communal institutions. Florentine citizens might even find this policy too liberal. The Pistoiese submitted to Florence in 1351 and gave her the custody of their town for fifteen years. Stefani, when describing this event, found the freedom left to her too great: the treaty with Pistoia 'meant liberty for them and expense for us'.[3]

One has to bear all this in mind, as well as the wide meaning of the word *libertà*, when judging Florentine professions of concern for the freedom of a town like Volterra. Even so, such professions can hardly have proved entirely acceptable to the towns concerned,[4] and could not have convinced the enemies of Florence. The ambiguities of the Florentine position reflected a conflict between two lines of policy which Florence pursued simultaneously. For her enemies, this was a welcome chink in the Florentine armour. 'They reduce the liberty of their neighbours to serfdom wherever they can',[5] writes Gregory XI in 1375. During the wars with Giangaleazzo, the Visconti's propaganda seized upon this opportunity. Giangaleazzo calls Florence tyrannical, and Salutati takes special pains to counter Giangaleazzo's chancellor's accusations that the Florentines oppress their subjects and 'suffocate them with harsh tyranny',[6] an accusation which was clearly aimed at the Florentine attacks on the despotic regime. Salutati points out that, far from doing anything of this kind, Florence had either restored freedom to her subject towns by liberating them from the hands of tyrants, or had brought

[1] Except for the short periods during which Florence was under a Signoria.

[2] The matter was, of course, different when a town came under the full *dominium* of Florence. Even such towns, however, preserved a not insignificant degree of self-government.

[3] *Cronaca fior.*, rubr. 644.

[4] On the opposition to Florentine territorial policy, cf. the important Lucchese despatches from Siena of 1387, in *Regesti Arch. di Stato Lucca*, ii [ii] (1903), ed. L. Fumi, nos. 1343 ff., pp. 254 ff., especially no. 1353, p. 260. Cf. D. M. Bueno de Mesquita, *Giangaleazzo Visconti* . . . (Cambridge, 1941), pp. 92–3.

[5] 10 Aug. 1375 (*Regesti*, no. 525, p. 79).

[6] Coluccio Salutati, *Invectiva in Antonium Luschum* (Florence, 1826), p. 51.

them up in it, and that it is absurd to describe 'freedom's gentle restraint, which is life under law', as tyranny.[1]

The problem of despotism in Tuscany assumes a different aspect when we turn to the attempts by Lombard Signori to extend their power into that region. If the Florentines say, in general terms, that they dislike the vicinity of a despot, they had naturally an additional reason for doing so if the latter was a powerful Lombard ruler.[2] In fact, the expansionist policy of the northern Signori raised for the Tuscan communes wider issues than that of political independence, for to come under the rule of a 'foreign' Signore meant the loss of *libertà* both in the sense of sovereignty and republican government. There can be no doubt that the Florentines were fully aware of these implications.

Much of the policy of Florence toward the Visconti in the second half of the century was dominated by the attempt to prevent the lords of Milan from acquiring permanent footholds in Tuscany, or at Bologna, the principal gateway to that region in the north. From an early date, the Florentines believed—and quite rightly—that such footholds could serve as strategic points for further acquisitions. Thus when there were differences between Giovanni Visconti and the Perugians during the peace congress of Sarzana in 1353, with regard to Borgo San Sepolcro, which Perugia had lost in 1351[3] and which it wanted to recover, the Florentines pressed them not to insist on their proposals, 'for it is better that this place should remain free than be under the present tyranny, which would result for you, as well as for all other Tuscans, in great trouble and danger'.[4] In 1350, the Florentine ambassadors to the congress of Arezzo, after the occupation of Bologna by Giovanni Visconti, are asked to remember that the

[1] *Ibid.*, pp. 52–3.

[2] Cf. e.g. M. Villani, i. 68, on the acquisition of Bologna by Giovanni Visconti in 1350: the 'comune di Firenze, a cui dispiaceva la vicinanza di sì potente tiranno . . .'

[3] W. Heywood, *A History of Perugia* (1910), pp. 195–6. Villani, ii. 42.

[4] Missive XI, fo. 18v. (3 March 1353): 'Melius enim est ipsam terram liberam remanere quam sub praesenti tyrampnide a qua vobis et nobis ceterisque Tuscis incommoda personarum rerumque discrimina pervenire . . .' On the contents of the respective proposals, cf. Sorbelli, *op. cit.*, p. 157. San Sepolcro was at that time under the *dominium* of Giovanni Visconti; cf. the peace treaty of Sarzana of 1353, *Rer. Ital. Script.*, xv [i], 234.

Visconti had been advised by certain counsellors that once he has Bologna he will have Pistoia and other places.[1] These fears led to the Florentine action in Pistoia in 1351, intended to effect the submission of that town to Florence. Donato Velluti played a prominent, although somewhat dishonourable, part in it. He was not given absolution by the Church for four years, and in the end he obtained it from the bishop of Florence on the ground that he had prevented Pistoia from coming under a tyranny.[2]

The fear that the final goal of the great Lombard Signori was to rule over Tuscany existed already at the time when Mastino della Scala was at the height of his power. His advisers, says Giovanni Villani, told Mastino in 1336 that if he kept Lucca for himself he could easily acquire Pisa too; he had Arezzo at his will; the Romagna and Bologna could soon be captured; and once this was achieved, 'he would, so to speak, encircle Florence'; and then it would be easy for him to conquer that town as well as the whole of Tuscany . . .[3] This may also illustrate the worst fears the Florentines had as to the ultimate aims of the Visconti after 1350. In 1351, says Matteo Villani, Giovanni had decided to subdue Florence, and 'the rule over Florence would make him lord of Italy'.[4] Similarly, Donato Velluti says about Bernabò Visconti's policy in Tuscany in 1369–70 that the Visconti believed 'that in a short time he would be lord of Florence and the whole of Tuscany'.[5] The actions of the Visconti justified the apprehensions of the Florentines to a considerable extent. First the acquisition of Bologna by Archbishop Giovanni in 1350, then the invasion of Tuscany in the following year; in 1369–70, Bernabò's acquisition of Sarzana and intervention at San Miniato,[6] and his attempts to establish his influence or control in Lucca and Pisa.[7] The Florentines had not to wait for Giangaleazzo to realize the possibilities of Visconti policy in Tuscany. No wonder that the lords

[1] 10 Nov. 1350: Canestrini, *op. cit.*, no. 37, p. 382.

[2] This, at least, is his story: *Cronica domestica*, ed. I. Del Lungo and G. Volpi (Florence, 1914), p. 208: 'questo paese sarebbe sotto tirannia, e fedele'.

[3] xi. 44.

[4] ii. 4.

[5] *Op. cit.*, p. 281. This was written shortly after the event, since Donato died in July 1370.

[6] Silva, *op. cit.*, pp. 53, 57 ff. Perrens, *op. cit.*, v. 72.

[7] L. Zerbi, *I Visconti di Milano e la Signoria di Lucca* (Como, 1894), pp. 17 ff.; Silva, pp. 62 ff.; Landogna, *op. cit.*, pp. 16 ff.

of Milan could be considered already at the time of Giovanni as 'ancient enemies' of Florence,[1] though this, as we have seen, did not mean that the Florentines could not at times be on good, or at least ostensibly friendly, terms with them.

It cannot be the object of this paper to discuss the conflicts between Florence and the Visconti during the fourteenth century. But we may ask what role the concept of Tuscan freedom played in actual Florentine policy, and in her attempts to deal effectively with the territorial ambitions of the northern Signori. In particular, can one speak of a systematic policy of Tuscan leagues against intervention from the north? And what was the importance of the principle of non-intervention in the diplomatic relations with Lombard Signori, and especially with the Visconti?

From the forties of the century onwards, a considerable number of leagues were concluded between Tuscan towns, sometimes with the participation of Bologna.[2] Most of these leagues were specifically directed against the mercenary Companies,[3] but not all of them,[4] and even leagues which were primarily directed against the Companies could actually be used against other Italian powers as well,[5] which after all could employ them in Tuscany.

[1] M. Villani, v. 17, 'nemici originali'.

[2] Cf. the remarks of Silva, *op. cit.*, pp. 167–8, on the development of a 'politica regionale' during the second half of the century.

[3] E.g. the leagues of 1349 (Pepoli, *Documenti*, no. 4, pp. 27–36), 1380 (*Capitoli di Firenze*, ii. 213–18), 1384 (*ibid.*, 218–24), 1385 (*ibid.*, 226–34), 1389 (*ibid.*, 240–3). G. Canestrini, 'Documenti per servire alla storia della milizia italiana', *Arch. Stor. Ital.*, xv (1851), pp. xlviii, lvi, gives some references to these Tuscan leagues, but has to be used with caution.—The league of 1349 was to be directed against the Company and non-Italian princes; cf. letter of 2 Sept. 1349: '. . . si faccia a riparo d'ogni signore oltramontano et della Compagna . . .; ma in caso ciò non si potesse fare, procedete solo a resistere a la Compagna . . .' (Canestrini, *Arch. Stor. Ital.*, app. vii, no. 24, p. 368).

[4] See below.

[5] Most of these treaties contained also general provisions for mutual defence; cf. e.g. *Capitoli*, ii. 215 (art. 9). The alliance concluded between Florence and Bernabò at the beginning of the war with Gregory XI (see above, p. 24) was, on the face of it, directed against the English Company: cf. Gherardi, *Arch. Stor. Ital.*, 3rd ser., vi [i], no. 14, p. 219; in fact, it was also aimed at the Pope (and the Emperor): cf. letter to Bernabò, 10 Aug. 1375, *ibid.*, no. 22, pp. 111–12: 'quamvis in pactis eiusdem lige nulla fuerit de Papa et Imperatore facta mentio singularis, nos tamen eamdem ligam ad ipsos Papam, et Imperatorem . . . extendi et intelligi tenore presentium declara-

Thus, to give only one example, Bernabò Visconti employed the *condottiere* John Hawkwood and his Company against Florence in 1369–70[1]; Coluccio Salutati strongly condemned him for having used and supported the Companies against other Italian states.[2] The Tuscan league of 10 October 1389,[3] concluded the day after the general league with Giangaleazzo Visconti,[4] was ostensibly directed against the Companies,[5] but there can be no doubt that it was to give its members, and particularly Florence, additional power in their dealings with the lord of Milan.[6]

The Tuscan league of 1347 was concluded 'for the common preservation and strength . . . and to repel the invasions . . . which may be carried out by some lord from beyond the Alps or his men or by some non-Tuscan tyrant or his men'.[7] In 1350, after the acquisition of Bologna by Giovanni Visconti, the renewal and extension of this league is to be negotiated 'against any lord or tyrant, or anybody wanting to disturb or seize the freedom or government of the said allies'.[8] At the same time, the Florentines would stress frequently the importance of the unity of the Tuscan

mus'. (Gherardi prints this letter without indication of his source; it is not copied in the registers of Missive for 1375.) The treaty itself is not extant, but a document of 1376 refers, in detail, to stipulations contained in it, implicitly providing for support of risings in the Papal States (league between Florence and Modigliana, 29 March 1376, *ibid.*, vii [ii], no. 197, pp. 240–7). Cf. also Stefani, *op. cit.*, rubr. 751, pp. 292–3.

[1] Perrens, *op. cit.*, v. 73 ff. G. Temple-Leader and G. Marcotti, *Giovanni Acuto* (Florence, 1889), pp. 52–6.

[2] *Epistolario*, ed. F. Novati, ii (1893), 157 (25 Oct. 1385).

[3] *Capitoli*, ii. 240–3. Cf. Silva, *op. cit.*, p. 258.

[4] L. Osio, *Documenti diplomatici tratti dagli archivj milanesi*, i (Milan, 1864), no. 201, pp. 278–93, and S. Favale, 'Siena nel quadro della politica viscontea nell' Italia centrale', *Bull. Stor. Senese*, xliii (1936), no. 2, pp. 351–70. This league also contained articles against the Companies (art. 9 ff.).

[5] Art. 16.

[6] Similarly, the peace treaty of Sarzana with Giovanni Visconti of 1353 was followed, at the beginning of 1354, by the renewal of the Tuscan league; cf. Sorbelli, *op. cit.*, pp. 169 ff., Baldasseroni, *op. cit.*, pp. 80 ff.

[7] *Capitoli*, ii. 210. *Rer. It. Script.*, xv [i], 208–9.

[8] 'Contra ogni signore o tyranno, o altri che volesse turbare od occupare la libertà o stato et reggimento de' detti collegati, o alcuno di loro . . .' (Missive X, fo. 53r. (16 Nov. 1350); Canestrini, *op. cit.*, no. 37, p. 380). The league was finally concluded, after lengthy negotiations, on 26 September 1351 (Baldasseroni, *op. cit.*, p. 388).

communes.[1] Thus the ambassadors sent to confer with those of Perugia, Siena and Arezzo in 1353 are asked to draw the attention of the latter to the successes of Giovanni Visconti at Bologna and Genoa, and to say 'that the commune of Florence has thought it necessary for the preservation of the freedom of the Tuscan communes . . . and that there is nothing more useful than to unite in the defence of their freedom'.[2] 'May all those peoples', they write another time to Bologna, 'which enjoy freedom, live honestly together and unanimously resist all dangers . . .'[3] This was written in the midst of a serious dispute with Siena, over Montepulciano; and, in fact, the frequent conflicts among Tuscan towns were the major obstacle to a successful policy of Tuscan alliances. Florence herself, with her territorial ambitions in Tuscany, contributed a considerable share to these latent or open conflicts. She was, however, not alone in doing so. Thus the conflict between Siena and Perugia which began in 1355 with the submission of Montepulciano, this time to Perugia, and which led to war between the two communes, made Siena refuse to join the Tuscan league.[4] During the war, Florence made constant efforts to induce the belligerents to come to terms; if they refuse to do so, they write on one occasion to the Perugians, it shows that they want to 'subject the whole of Tuscany to tyranny'.[5]

So far as the Tuscan leagues were directed, tacitly or expressly,

[1] And of the Tuscan Communes and Bologna; cf. Collino, *Arch. Stor. Lomb.*, xxxvi [i], 15, n. 2 (17 July 1388): 'fiat concordia cum Senensibus et unitas Tuscorum et Bononiensium'.

[2] Missive XI, fo. 53r. (15 Oct. 1353): 'che per lo comune di Firenze fu pensato assai necessario alla conservatione della libertà de' comuni Toschani . . . e che niuno altro modo è più utile nè più salutevole che unirsi alla difesa della loro libertà . . .'

[3] 12 Aug. 1388: Collino, *Arch. Stor. Lomb.*, xxxvi [i], 34, n. 4.

[4] M. Villani, v. 83: '. . . i Perugini vaghi di crescere signoria . . . accettarono la guardia (of Montepulciano) . . . Questa cosa conturbò molto il comune di Siena; e perciò facendosi la lega che seguì appresso de' Toscani, i Sanesi non vi vollono essere . . .' Cf. Heywood, *op. cit.*, pp. 223 ff. The league was concluded on 18 Feb. 1356, without the Sienese: Degli Azzi, *op. cit.*, ii, no. 419, pp. 114–16.

[5] *Ibid.* i, no. 315, p. 96. (6 Apr. 1359). Florence was afraid that Siena might invoke the help of Bernabò; cf. *ibid.*, no. 280, p. 83 (20 Apr. 1358) and Missive XII, fo. 23v. (1 June 1358); the Sienese are to be told how much 'scandolo seguire ne potrebbe et diturbatione della libertà di tutti i Comuni liberi di Toscana . . .'

against intervention from outside Tuscany, they could be considered as fulfilling an important function in protecting the 'libertas Tusciae', and whatever their actual usefulness, the Florentines appear to have set considerable store by them. The Lombard Signori were not the only rulers whose intervention in Tuscany they feared,[1] but in the second half of the century the dangers deriving from Visconti expansion by far surpassed those from other powers. We have seen Tuscan leagues being used to counter them, or to serve as precautionary measures. To speak of a *system* of alliances under Florentine leadership would be going too far; however, the Tuscan leagues remain one of the most important aspects of Florentine diplomacy in the second half of the century.[2]

In 1353, the principle of non-intervention in Tuscany is embodied in the peace treaty of Sarzana,[3] which ended the first war between Florence and the Visconti caused by Visconti expansion towards Tuscany. It figures again in the league with Giangaleazzo Visconti of 9 October 1389.[4] This league was concluded shortly before the outbreak of the first war with Giangaleazzo (April 1390), and the peace treaty of Genoa of 1392, which ended this war, contained, in its turn, non-intervention clauses.[5] According to these stipulations, the Visconti are not allowed to intervene in Tuscany, or else, as in 1389 and in 1392, intervention is prohibited with the exception of certain cases.[6]

[1] The Florentines felt considerable apprehension about the expedition of Charles IV in 1354–5; cf. M. Villani, iii. 41. Perrens, *op. cit.*, iv. 438 ff. But the days of Henry VII were over. Papal policy in the Patrimony constitutes a chapter of its own; Albornoz' successes form the background to the war of 1375–8.

[2] N. Rodolico, *La democrazia fiorentina nel suo tramonto* (Bologna, 1905), p. 343, appears to underrate their importance.

[3] *Capitoli*, ii. 22, art. 133–4. *Rer. Ital Script.*, xv [i], 323. Already in 1351, immediately after the outbreak of the war, an embassy was sent to the Visconti to reach, among other things, agreement on non-intervention in Tuscany; Sorbelli, no. 37, p. 377 (28 July). In December, the Florentines write to Siena that peace should be concluded only if it was stipulated that the Visconti 'in Tuscie partibus se decetero non debeat immisceri' (Baldasseroni, *op. cit.*, xii, no. 10, p. 90: 23 Dec.).

[4] See above, p. 39, n. 4.

[5] J. Rousset, *Suppl. au corps univ. dipl.*, i [ii] (1739), pp. 249, 262. *Capitoli*, ii. 403, art. 12, 404.

[6] Neither in 1389 nor in 1392 did Florence achieve complete prohibition of intervention. See below, p. 44.

In other words, Tuscany is to be sealed off, as far as possible, by diplomatic agreements.[1] In a letter of 1382,[2] this programme is stated with admirable conciseness: 'Tuscis Tuscia'.[3]

It may be wondered whether the Florentines had great hopes as to the efficacy of such treaties. In 1389, their doubts are shown by the fact that almost immediately after the conclusion of the general league with Giangaleazzo, they concluded a more restricted league with other Tuscan towns and Bologna[4]—a kind of re-insurance policy. But it was not unusual for Florentine diplomacy to have, if necessary, more than one string to its bow.

The policy of non-intervention was practicable only on the basis of reciprocity. If in the peace of Sarzana of 1353 the Visconti was not allowed to intervene in Tuscany, the same applied to Florence with regard to Lombardy[5]; or if a measure of intervention was allowed, this was again to apply to both parties.[6] At the same time, it should be borne in mind that it was the Visconti who wished to expand into Tuscany, not the Florentines into Lombardy.[7]

[1] In the treaty of 1389, a line running along the river Secchia to Modena, i.e. north of the traditional boundaries of Tuscany, is agreed upon as demarcation line between the respective spheres. This line plays an important role in the negotiations preceding the league. Cf. Mesquita; *op. cit.*, no. 3, pp. 343, 345; Silva, *op. cit.*, doc. no. 19, p. 324. The traditional northern boundaries were, in the west, the river Magra, then the 'Apennine Alps' (Dante, *Paradiso*, ix, verses 89–90; G. Villani, i. 43; Mussato, *Historia Augusta*, in Muratori, *Script.*, x. 431 ('Alpes Lunae')).

[2] Collino, 'La politica fiorentino-bolognese . . .', *Mem. Accad. d. Sc. Torino, Memorie*, 2nd ser., liv (1906), no. 29, p. 156. It is not without interest that these words go back to a letter from Bernabò. He obviously knew what would appeal to the Florentines.

[3] The Florentines aimed not only at including a strip north of the Apennines and Bologna in the sphere of non-intervention for the Visconti, but also the whole Romagna. Cf. the treaty of 9 Oct. 1389. For the early fifteenth century, cf. the remarks of G. Soranzo, 'Collegati, raccomandati, aderenti negli Stati italiani dei sec. XIV e XV,' *Arch. Stor. Ital.*, xcix (1941). 17–19.

[4] See above, p. 39, n. 3.

[5] And Bologna, *Capitoli*, ii. 322, art. 135. *Rer. Ital. Script.*, xv [i], 237–8. This naturally also applied to her Tuscan allies.

[6] For the treaties of 1389 and 1392, see above, pp. 39, n. 4, 41, n. 5.

[7] See below. The Romagna was a different matter. Although Florence usually desired only alliance with Bologna, the possibility of acquiring control of that town had not always been entirely absent from Florentine

Not without interest, in this connection, are Florentine attempts, in times of conflict, to deprive the enemy of subject towns in the name of freedom. This line of policy played an important part in the war with Gregory XI[1]; it also appears at the outbreak of the first war with Giangaleazzo. One of the arguments against a league with the latter in 1389 has already been quoted: his subjects would lose all hope of liberty[2]; and at the beginning of the war, the Florentines emphasize that they are fighting not only for their own freedom, but also for that of the peoples which he is oppressing.[3]

Did Florence intend to appropriate any of these towns? The plans regarding a Franco-Florentine alliance in 1389 shed some interesting light on this question. This alliance, which was to be proposed to Charles VI of France, was to provide for the partition of the Visconti state. But while the king and the count of Savoy (if he joined) were to make considerable territorial acquisitions, Florence was not to gain any territory at the expense of the Visconti. On the other hand, the towns not included in the portions of the former, were, wherever possible, to come under a republican government, 'in populare stato', and under the suzerainty of the king.[4]

Had the principle of non-intervention proved successful, it would therefore have been greatly to the advantage of Florence. Acceptance of it became, in fact, an essential Florentine condition, in 1389, for the conclusion of the league with Giangaleazzo,

diplomacy. There appear to have been plans to that effect just before Bologna fell into the hands of Giovanni Visconti in 1350. Cf. M. Villani, I. 67. Sorbelli, *op. cit.*, pp. 19 ff. On Florentine ambitions in the Romagna at the beginning of the fifteenth century, see Soranzo, *op. cit.*, pp. 18–19. This aspect of Florentine policy deserves further study.

[1] Perrens, *op. cit.*, v. 113 ff. See above, p. 30.

[2] See above, p. 26.

[3] See above, p. 31.

[4] A. Mancarella, 'Firenze, la chiesa e l'avvento di Ladislao di Durazzo al trono di Napoli', *Arch. Stor. Napol.*, xlvi (1921), doc. no. 22, pp. 215–16, calendars the instruction. Cf. P. Durrieu, *Les Gascons en Italie* (Auch, 1885), pp. 46–7; L. Mirot, *La politique française en Italie de 1380 à 1422*, i (1934), 11–12. In the treaty of alliance with Charles VI of 30 June 1396 it was stipulated that the places acquired during the war in Lombardy were, with a few exceptions, to remain at the disposal of the king. *Capitoli*, ii. 407, art. 5. Cf. E. Jarry, *Les origines de la domination française à Gênes* (1896), pp. 191–3.

originally suggested by the latter.[1] Giangaleazzo was prepared to accept it only with considerable reservations; in Florence it was argued at that time that 'if we conclude this league, we lose the substance of the treaty of Sarzana, which is that he may not send troops into Tuscany. For now he wants to be able to assist his friends.'[2] A clause to this effect was, in fact, embodied in the final treaty.[3] Although, therefore, the Florentine point of view prevailed in so far as the principle of non-intervention was accepted by the Visconti, the reservations to which it was subjected deprived it from the beginning of much of the meaning which the Florentines had attached to it. As it was, the league proved to be of scanty value in relieving the tension between Florence and Milan; war broke out a few months after its conclusion.

The political conditions of Tuscany provided one of the main obstacles to the success of the non-intervention principle during the second half of the century. The territorial ambitions of the great Tuscan communes, and the conflicts and tensions arising from them, were liable to give the Visconti opportunities for intervening in that region of which they could hardly be expected not to take advantage at one time or the other. These difficulties were thus similar to those confronting a consistent policy of Tuscan alliances,[4] and Florence herself, with her numerous acquisitions between 1350 and 1384, was bound to create situations in which outside help would be sought against her. The conflict between Florence and Siena that originated in the acquisition of Arezzo by Florence, instead of by Siena,[5] and culminated in the conclusion of an alliance between Siena and Giangaleazzo in September 1389, illustrates the repercussions of rival territorial policies, and of Florence's own expansion.[6]

[1] Cf. instruction for embassy to Pisa, etc., 11 April 1389, Silva, *op. cit.*, no. 19, p. 324: 'che il conte non si potesse in alcun modo intromettere . . . ne' fatti di Toscana, nè di Bologna . . .' If he accepts this condition, 'noi pensiamo dell' altre cose accordarsi insieme'.

[2] Consulte e Pratiche, XXVII, fo. 31.: 'che faciendo la lega, si perde la ragione del patto di Sarzana, che è ch'egli non possa mandare giente in Toscana, perchè vuole potere atare gl'amici suoi.' See above, p. 26, n. 3.

[3] See above, p. 39, n. 4. [4] See above, p. 40.

[5] Cf. G. Fatini, 'L'ultimo secolo della Repubblica Aretina', *Bull. Stor. Sen.*, xxxi (1924), pp. 96 ff.

[6] Cf. Collino, *Arch. Stor. Lomb.*, xxxiv [i], 125 ff., xxxiv, [ii], 234 ff., 269 ff., 281 ff., xxxvi [i], 34ff., 325 ff., 331ff., 358 ff. Favale, *op. cit.*, 316 ff.; Mesquita,

The policy of non-intervention could in the end come to imply a division of spheres of predominance. If the Della Scala and the Visconti pursued a policy of this kind in northern Italy, was not Florence cherishing similar aims in Tuscany? And was not perhaps her concern for the immunity of Tuscany from outside intervention linked with her desire for hegemony in that region? The development of Florentine hegemony in Tuscany during the fourteenth century would well merit a special study. Here it may only be remarked that by the second half of the century there were clearly two main alternatives for her Tuscan policy: control, in one form or the other, or alliance. Florentine politicians were realist enough to appreciate the importance of either; and although they might, as a rule, prefer the former, they would clearly understand that there were times and circumstances when only the latter was a practical proposition. The available evidence for that period does not seem to suggest that their Tuscan policy was consistently dominated by the desire for aggrandisement and hegemony. There was more than one purpose, more than one policy at work in shaping Florentine diplomacy, and its immediate objectives could change or alternate according to changing circumstances.

What, however, remained fairly consistent throughout the fourteenth century was the aim to preserve Tuscany from outside powers, and particularly from the Lombard despots. There was a remarkable continuity in Florentine foreign policy in this respect —the more remarkable if we think of the frequent internal problems and of the constant changes of government demanded by the constitution. 'Tuscany for the Tuscans' would have been a good battle-cry, just as was the *Libertas* inscribed on one of the Florentine banners.[1] It is true that a fourteenth-century Florentine may have hoped that one day this might come to mean 'Tuscany for Florence'. But such final aims, however important they became in the end, were not the only ones which determined, during the fourteenth century, the policy of Florence toward Tuscany, and toward the intervention of Lombard Signori in that region.

op. cit., 90 ff. The treaty with Siena of 22 September is printed in Favale, no. 1, pp. 347–51.

[1] See above, p. 30.

THE GENERALS AND THE DOWNFALL OF THE GERMAN MONARCHY 1917–1918

By Dr. E. Eyck

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EVERY modern war brings to the forefront the fundamental problem of the relations between the highest civil and the highest military authority. The German Empire never succeeded in solving this problem.

As long as Bismarck ruled, his preponderance over the generals was secure. But this was so only on account of the quite extraordinary strength of his personality, and of a recklessness which sometimes verged on brutality. We know from his own memoirs how hard he had to struggle to make his will prevail over the military counsellors of the king, as for instance in Nikolsburg against their annexationism and during the Franco-German war. We know, too, that General Moltke, the Chief of the General Staff, a man conspicuous for his objectivity, never forgave Bismarck for what he considered his interference in military affairs. Even Bismarck did not prevail in his protest against the annexation of Metz in 1871, which he considered politically unwise and which the generals declared indispensable for military reasons. It is significant that in the last years of his chancellorship, Bismarck deemed it wise to ally himself with the chief of the Emperor's Military Cabinet, General von Albedyll, in order to protect himself against any possible danger which could menace his position.[1] Under William II, to whom an officer's uniform was a guarantee of all virtues and talents, the predominance of the generals increased even further. Eulenburg, who deplored this development, wrote in 1894 that 'the Maison Militaire has everywhere its influence, at its head General Plessen, who always proclaims "Shoot

[1] E. Eyck, *Bismarck* (Zürich, 1944), iii. 313.

them"! Good Lord, how old Bismarck had these people under his big thumb'.[1]

None of Bismarck's successors had his authority over the generals, certainly not Bethmann-Hollweg. That became manifest as early as the fateful days of July 1914. It was in these days that the Austrian Foreign Minister, Count Berchtold, exclaimed 'Who rules in Berlin? Moltke or Bethmann?'[2]

But the most serious difficulties for Bethmann began after he had made Hindenburg and Ludendorff Chiefs of the Supreme Command of the Army (*Oberste Heeresleitung*), after General Falkenhayn's bloody failure before Verdun. It was Bethmann who advised the emperor to remove Falkenhayn from his command and to replace him by the two generals who alone possessed the full confidence of the German people.

There can be no doubt that Hindenburg and Ludendorff enjoyed an enormous popularity. The victorious general is always and everywhere most popular. The German people looked upon Hindenburg as the victor of Tannenberg and many other battles against the Russians, and upon Ludendorff as his strategic adviser, a man full of genius and energy. Bethmann's popularity was, to say the least, very limited. Wide circles looked askance at him, because they felt that he did not have the unquestioning confidence in a complete victory which they had. This victory they wanted to be exploited by an extension of the frontiers of the Fatherland, and they felt that Bethmann did not favour such aspirations. These annexationists were to be found mainly among the political parties of the Right, the Conservatives and the National Liberals. It was to these parties of the Right that the political sympathy of the leading men of the professional military caste, particularly in Prussia, belonged.

True, there was an old principle in the German army that it should keep out of politics and stating that no serving officer or soldier was to meddle with political business or agitation. But no principle or law could prevent them from having political opinions, sympathies or antipathies. No English law could prevent General Sir Henry Wilson from being a strong Tory and a rabid anti-Home-Ruler, or from writing the most disdainful remarks about the 'frocks', i.e. the members of the government, into

[1] Cf. J. Haller, *Eulenburg* (Berlin, 1924), p. 108.

[2] E. Eyck, *Das persönliche Regiment Wilhelms II* (Zürich, 1948), p. 761.

his diary. The sympathy of most Prussian officers, particularly the members of the General Staff, belonged to the so-called 'national' parties of the Right; their antipathy was towards the democracy which they considered a menace to the 'strong German monarchy'.

Hindenburg did not understand anything about politics and did not care about them. Ludendorff was a most ambitious man, whom his splendid military successes had filled with a boundless self-confidence and who inclined to despise other less successful men. He accepted the opinion usual among right-wing people, that Bethmann was weak-kneed (*schlapp*) and had to be guided by stronger and more energetic men. He was surrounded by younger officers of the General Staff, who agreed with this view with all their hearts. It was a tradition among German officers to consider themselves superior to civilians. One can imagine the sort of talk going on in officers' messes, if one recalls that the Emperor William had not been ashamed to write in the exciting days of July 1914: 'That is a point the civilian Chancellor does not understand' (*Die hat der Civilkanzler noch nicht begriffen*).[1] It was inevitable that Ludendorff, who was easily the superior of Hindenburg as a dialectician and writer, acquired a strong influence over the old Field-Marshal and gradually took him completely in tow.

The first clash between the Chancellor and the Supreme Command occurred over unlimited submarine warfare in the winter of 1916–17, and it ended with a defeat of the Chancellor. A considerable part of the responsibility rests with the parliamentary Centre party, which agreed to a resolution as early as October 1916 that they would be ready to approve unrestricted U-boat warfare if the Supreme Command was in its favour. Bethmann and his Secretary of State Helfferich opposed this form of warfare, because they were convinced that its consequence would be an American declaration of war. This the Chancellor pointed out in a telegram to Hindenburg in December 1916, when the Field-Marshal and Ludendorff strongly demanded the immediate beginning of the U-boat war 'lest the army's will to fight would be endangered'.[2] Bethmann emphasized that this was

[1] *Die deutschen Dokumente zum Kriegsausbruch* (Charlottenburg, 1919), i. 193.

[2] *Untersuchungs-Ausschuss des Deutschen Reichstags, Zweiter Unter-Ausschuss* (Berlin, 1920), Beilage iv, p. 213.

an act of foreign policy for which he alone was and must be responsible.[1] Hindenburg was bold enough to reply that he regretted the Chancellor's telegram and that it was a matter of course, that he, the Field-Marshal, 'would with all his strength and fully aware of his own responsibility insist on it that militarily everything was done that he considered suitable'.[2]

Thus the conflict between political and military leadership was stated quite bluntly. The only authority who was constitutionally qualified to settle it was the emperor. The old Emperor William I had given his decision when the views of Bismarck and Moltke conflicted, and although he was a much smaller man than these two, he had succeeded, because his character gave him undoubted authority and because he knew how to keep everyone to the sphere of his respective department. William II had before the war proclaimed himself in innumerable speeches as the one and only leader of the empire. 'Ich führe Euch herrlichen Zeiten entgegen', he had cried out to the German people. But after the war had broken out, it became manifest, what many serious critics had seen long before, that he was only an actor, and a bad actor too, who was quite unable to play the role which he had assumed. He had been convinced by Bethmann's and Helfferich's arguments and decided against the U-boat war. But when on the morning of 9 January 1917 the Chancellor arrived at William's Headquarters in Pless, the decision to begin U-boat warfare had, as he himself writes,[3] already been taken *de facto*. William had yielded to the combined onslaught of his generals and admirals. And now Bethmann made the greatest mistake of his political life: he remained in office, although he continued to consider the decision disastrous and foresaw its logical consequence, the declaration of war by the United States, which, in his opinion, meant the almost certain loss of the war.

Bethmann's pliability in no way diminished the hostility of the generals, and the only political act he could still undertake in the short six months of his political life increased it very considerably. This was the emperor's decision in favour of the reform of the

[1] *Untersuchungs-Ausschuss des Deutschen Reichstags, Zweiter Unter-Ausschuss* (Berlin, 1920), Beilage iv, p. 214.

[2] *Ibid.*, p. 216.

[3] T. von Bethmann-Hollweg, *Betrachtungen zum Weltkriege* (Berlin, 1920), ii. 131.

Prussian three-class suffrage. It was certainly only a truism when Bethmann declared in the Prussian Chamber of Deputies in March 1917 that 'Germany's future of necessity implies the political rights of the broad masses, which make possible for them a cheerful collaboration in the state with equal rights'. But this truism shocked the Prussian junkers, since the three-class suffrage was the indispensable basis of their political power in Prussia, and by way of Prussia in the German Empire. There was nothing of which they were in more mortal fear than of the application of the universal suffrage of the German Reichstag to the Prussian Landtag. And it was precisely this that Bethmann induced the Kaiser to promise publicly in two successive steps, the Easter proclamation and the proclamation of 11 July 1917. This was the advancing march of the Democracy which they feared and which Ludendorff hated.

The General was in complete agreement with the Junker party. 'A kowtow before the Russian Revolution',[1] he called the Easter proclamation which had promised no more than the direct and secret election of the Deputies. After the fall of Bethmann, he proclaimed his political creed in a letter to a Prussian minister: 'The war does not in any way justify democratization and parliamentarianism. A policy of concessions to the spirit of the age is exceedingly dangerous.'[2] He confesses in this letter of 8 December 1917 that he had greeted Bethmann's retirement as a 'deliverance', mainly on account of his attitude towards the Left. The conservatives knew, of course, that their resistance against the reform had the complete sympathy of the Supreme Command, and they were confident that Ludendorff would prevent the government from a dissolution of the Chamber of Deputies, the only measure of which they were afraid. At the end of April 1918 Stresemann, who had helped Ludendorff to overthrow Bethmann, but knew quite well how necessary the reform was, described the situation to the general in a long letter. But Ludendorff in a letter of six lines declined to express any opinion, under the pretext that he never said anything on questions of home politics, 'which had nothing to do with the ultimate success'.[3] It is significant of his political blindness that even in April 1918, when he knew that his great

[1] *Ibid.*, ii. 191.
[2] E. Ludendorff, *Urkunden der Obersten Heeresleitung* (Berlin, 1920), p. 291.
[3] *Ibid.*, pp. 293 ff.

offensive had not succeeded, he failed to see how intimately the outcome of the war was connected with the appeasement of public opinion by necessary and inevitable reforms. The miscarriage of the reform of the Prussian suffrage was one factor that contributed to the revolutionary temper of the masses, and Ludendorff was one of those who were responsible for it.

The Royal Proclamation of 11 July was the last act of Bethmann.[1] Two days later he was overthrown by Hindenburg and Ludendorff. The crisis began with Erzberger's attack on the admirals for not having fulfilled their promises to defeat England by the U-boat war. Erzberger, one of the leaders of the Centre party, made this attack in the Budget Committee of the Reichstag on 2 July. In the course of a very confused development it led to the well known Peace Resolution of the Reichstag of 17 July 1917. The confusion was mainly due to the fact that two tendencies crossed each other. One was the honest aim of most members of the majority parties (*Fortschrittliche Volkspartei*, Centre and Social-Democratic Party) to end the war as quickly as possible by solemnly renouncing any desire for annexations. The other was the wish of some parliamentarians to use this opportunity to get rid of Bethmann, whom they considered unable to bring the war to a satisfactory conclusion. Among these was Erzberger, the most active member of his party, and Stresemann, the leader of the National Liberals. Both desired the return of the former chancellor Prince Bülow, under whose personal influence they had lately come.[2] The positive political aims of both men differed widely from those of Ludendorff. Nevertheless, their rejection of Bethmann gave the general the opportunity for exploiting the confused situation for his own ends.

As soon as the news about the planned Peace Resolution reached the Supreme Command, Hindenburg and Ludendorff hastened to Berlin and, without informing the Chancellor, asked the emperor to be received in audience 'for the purpose of expressing their opinion about the proposal of Erzberger from the military point of view'. But Bethmann succeeded in forewarning William and, when Ludendorff tried to refer to political questions,

[1] The principal source for the following account is *Das Werk des Untersuchungs-Ausschusses des Deutschen Reichstags 1919–1926*. Vierte Reihe. *Die Ursachen des Deutschen Zusammenbruches im Jahre 1918*, cited as *UDZ*.

[2] B. Schwertfeger, *Kaiser und Kabinetschef* (Oldenburg, 1931), p. 180.

the emperor closed the audience, remarking that the General Staff should not interfere with politics, which belonged to the sphere of competence of the chancellor. The generals had to withdraw to their Headquarters at Kreuznach. But in fact Ludendorff did not dream of obeying the Kaiser's order. He left in Berlin one of his subordinates who, he was sure, would use every means of undermining the Chancellor's position. That was Major Bauer, a typical representative of the reactionary political dilettantism of the officers' caste. In a memorandum of March 1917 Bauer had written that the parties which defended the monarchy and the state (*die monarchisch-staatserhaltenden Parteien*) had moved away from Bethmann, because he had become 'the obedient instrument of the Left'.[1] This memorandum contained even then most of the slogans which later became the ingredients of the 'Stab-in-the-Back' legend, including the slogan 'Jewish Liberalism'. Bauer was one of the men who spread among members of the Reichstag the rumour that Ludendorff believed the war would be lost if Bethmann remained Chancellor. But his great opportunity came when Bethmann advised the emperor to introduce universal suffrage in Prussia.

William replied that he would have to consult his son before he gave a definite decision. Now William had always thought very little of the political understanding of the Crown Prince. His sudden desire to consult him can be explained only by the influence of his military advisers. Bauer himself writes: 'I suggested that the Crown Prince should be called and I telephoned him to come.' The prince came, approved universal suffrage for Prussia, against which he nevertheless continued to fight underground, and asked his father to dismiss Bethmann. When the emperor refused, the prince, on Bauer's advice, asked the leaders of the parliamentary parties to see him and to give him their opinion about the Chancellor's position. The list of the leaders was, of course, drawn up by Bauer, who saw to it that those parliamentarians were selected who were known to be most hostile to Bethmann—such men as Erzberger, Stresemann, and (among the Social-Democrats) Dr. David.[2] During the audiences Bauer

[1] M. Bauer, *Der Grosse Krieg in Feld und Heimat* (Tübingen, 1921), p. 134; *UDZ*, ii. 30.

[2] The description, given by J. W. Wheeler-Bennett in his otherwise excellent book *Hindenburg*, p. 105 ('The interview was carried out in tune

sat hidden behind a curtain and took down in shorthand their answers to the Crown Prince's questions. Only the leader of the Fortschrittliche Volkspartei, Payer, declared unconditionally for Bethmann; most of the others, chiefly, of course, Erzberger and Stresemann, advocated his dismissal. Triumphantly the Crown Prince laid his report before his father, but even now William declined to follow his son's advice.

But on 12 July, when the Kaiser was in conference with Bethmann, a telephone message arrived from Kreuznach to the effect that Hindenburg and Ludendorff had sent in their resignations, giving as their reason that they were unable to continue collaborating with Bethmann. Ludendorff had added that this time he would insist on his will under any circumstances.[1] Thus the generals, certain of their indispensability and their popularity, demanded the subjection of the political leaders to their will.

Now it was for William II to show how he understood his own words 'Regis voluntas suprema lex'. Schiller's Wallenstein says of his great adversary, Gustavus Adolphus of Sweden:

> . . . . Was machte diesen Gustav
> Unwiderstehlich, unbesiegt auf Erden?
> Dies: dass er König war in seinem Heer!
> Ein König aber, einer, der es ist,
> Ward nie besiegt noch, als durch seinesgleichen.

But William was never a king who is really a king. He collapsed, as he had done so often before, when a stronger will had opposed him. He accepted Bethmann's immediately proffered resignation forty-eight hours after he had proclaimed his confidence in him by signing the proclamation about universal suffrage for Prussia.

Now here a question of principle of the highest constitutional importance was involved.

with the best Prussian traditions; shoulder to shoulder the party leaders . . . stood to attention while the heir to the throne cross-examined them'), is incorrect and misleading. Each of the leaders of the greater parties had a separate interview. Cf. F. Payer, *Von Bethmann Hollweg bis Ebert* (Frankfurt, 1923), p. 31; C. Haussmann, *Schlaglichter* (Frankfurt, 1924), p. 120. Not the Social Democrat David, as Mr. Wheeler-Bennett says, but Payer, who at this time was not Vice-Chancellor but the chairman of the Progressive Party, was the only one who stood up for Bethmann.

[1] *UDZ*, ii. 154.

The fundamental doctrine of the Prussian and German monarchy was that the chancellor and all ministers depended only and exclusively upon the confidence of the monarch. As long as a minister possessed the confidence of the King-Emperor, he could not be removed from his post even by an overwhelming parliamentary vote of non-confidence. That was the 'differentia specifica', the specific difference which distinguished the so-called 'German constitutionalism' from the parliamentary system of western Europe. This Prussian system, the invention of Friedrich Julius Stahl,[1] had been practically carried through by Bismarck in the Prussian constitutional conflict of the eighteen-sixties, and he had even succeeded in transferring it to the new German Empire. Bismarck himself had been a victim of this system in 1890, but it had become so deeply rooted that it survived even this catastrophe.

By compelling the Kaiser to dismiss a chancellor who continued to have his confidence, the generals destroyed the Bismarckian system of German monarchical constitutionalism. From this moment onward the emperor's position was fundamentally changed, not in favour of modern parliamentarianism, but in favour of a system that had neither roots in the past nor signposts to the future. It was the result only of a confused momentary situation which nobody was able to master, least of all the generals who had brought it about.

That became manifest at once. Nobody knew how to replace the overthrown chancellor. Erzberger and Stresemann had a candidate, Bülow, but he was impossible on account of the antipathy of the Kaiser and the suspicions of the Austrian ally. Ludendorff had never even taken this question into consideration. He shows his almost incredible political ignorance by writing in his memoirs [2] that he was surprised that the competent authorities did not always have in readiness a successor to the chancellorship. If after a few days the German people were surprised by the news that an almost unknown Herr Michaelis had been appointed chancellor, the generals were mainly responsible for this surprise. The emperor himself told Kühlmann[3] later that Hindenburg had praised Michaelis as 'an honest God-fearing man', and so 'I have

[1] E. Eyck, *Bismarck*, i. 108.
[2] *Kriegserinnerungen*, p. 363; *UDZ*, ii. 31.
[3] R. von Kühlmann, *Erinnerungen* (Heidelberg, 1948), p. 502.

taken him on this recommendation (*in Gottes Namen*)'. To this nadir the 'strong German monarchy' had sunk, and by this method the question of political leadership was solved in Germany's most critical hour.

A chancellor who had seen his predecessor overthrown by the machinations of the generals and who himself owed to them his unexpected promotion was bound to be most anxious not to jeopardize their support. In order to avoid a parliamentary crisis he had to do lip-service to the Peace Resolution of the Reichstag, but he did it in the same sense as the generals, with his tongue in his cheek. He did it so clumsily, by adding his notorious 'as I understand it' (*wie ich sie auffasse*), that he aroused the strongest suspicions and was saved only by the reflection that the times were too serious for a new crisis. It would be going too far to say that the Peace Resolution would have successfully opened the way to peace, if the responsible authorities had honestly done their best to execute it. But the simple fact is that these did just the reverse, and created in every way the impression that it was a meaningless declamation. Small wonder that it led to no practical effect and that the enemy countries took no notice of it.

The actual question was the German attitude towards Belgium. Was the government ready to restore Belgium's integrity and sovereignty in a future peace? This question was put publicly before the whole world by the Note of Pope Benedict XV of 1 August 1917.[1] The new Secretary for Foreign Affairs, Richard von Kühlmann, knew enough of English history and policy to be convinced that no English government would conclude a peace without Belgium's restoration. One may assume that he would have been ready to concede it if peace could have been arrived at in this way. I cannot discuss here Kühlmann's diplomacy.[2] But it must be stated that the Supreme Command as well as the admirals put the strongest obstacles into the way of every step in this direction. That became manifest in the Crown Council of 11 September 1917, which was held at the Bellevue Palais in Berlin under the presidency of the Kaiser. Ludendorff demanded the economic union of Belgium with Germany, a long-term

[1] *UDZ*, viii. 132 ff.

[2] F. Meinecke, *Kühlmann und die päpstliche Friedensaktion von 1917* (Preuss. Akademie d. Wissensch., 1928, xvii); *Erinnerungen* (Stuttgart, 1949), p. 204.

occupation, annexation of Liége, and the division of the country into a Flemish and a Walloon territory. Not only Michaelis and Kühlmann, but also the emperor realized that this programme made peace quite impossible. The emperor's decision which wound up the Council was much more moderate. Although it did not amount to unconditional restoration, the conditions which were still retained could have been modified in the course of diplomatic negotiations. But it is not worth while to describe them in detail, because they did not in any way determine further developments.

For now occurs a highly characteristic episode. The day after the Crown Council, Michaelis wrote a letter to Hindenburg behind the back of his Foreign Secretary. Kühlmann later declared upon oath before the Reichstag's Committee of Investigation that it was an unpleasant surprise to him when he became acquainted with this correspondence through its publication in the newspapers.[1] He had good reason for complaining, for he had to read that Michaelis promised Hindenburg to include the demands of the Supreme Command in what he called 'our plans for the negotiations'. He only tried to moderate this programme in one respect, that the demand for Liége should be made only for a limited time and only as a security guarantee.[2] Even this small concession was declined in a letter which was signed by Hindenburg but was certainly drafted by Ludendorff: the generals wanted to remain masters of Liége permanently. Two further sentences may be quoted to characterize the men whom a great part of the German people considered as their political leaders.

> Hardly anybody will consider that much had been gained if our neighbours are made to consent to bear themselves the heavy damage which we have done them . . . I doubt very much whether the frustration of the dismemberment of Germany, intended by our enemies, can be looked upon as any consolation for our eventually not having reached our goals.[3]

These sentences remain important, even if one does not think that the action of the Pope had any chance or that a frank declaration of the German government, that it was ready unconditionally

[1] *UDZ*, iv (ii), 131.
[2] *Ibid.*, viii. 139.
[3] *Ibid.*, viii. 140.

to restore Belgium's independence and integrity, would have brought about peace.

On the Eastern front, the Bolshevik revolution of November 1917 had deprived the Western Powers of their Russian ally. This revolution was only made possible by the transportation of Lenin from his Swiss exile to Russia through Germany with a permit from the German government. That Ludendorff was the prime mover in granting this permit cannot be doubted by anybody who knows where the real power at that time resided.[1] The immediate result was very favourable from the German point of view. In the long run it was disastrous. It is no reproach to Ludendorff that he was not more far-seeing than the politicians in political questions. But he was blind also to the danger of infection which a victorious Bolshevik and pacifist revolution was bound to have for the soldiers of the German army. In this case the generals, who always posed as the spokesmen of the feeling of the army, showed that they were completely out of contact with the outlook of the common soldier.

As I cannot go into the details of the negotiations and the peace of Brest-Litovsk, I must be content to state that the interference of Ludendorff was primarily responsible for its becoming a dictated peace, with all the disastrous consequences this had for Germany after her defeat. Not less important is the fact that he paid no heed to the wants, needs and miseries of his Austrian ally, who was completely exhausted and threatened by starvation.[2] Did he not foresee the inevitable repercussion which an Austrian collapse must have even for the German army? He felt confident that Austria would not collapse if only the great offensive on the Western front, which he had planned for the spring of 1918 and for which he needed the soldiers from the Eastern front, now rendered redundant by the collapse of Russia, succeeded.

In fact, he put all his eggs in this one basket.[3] The victorious offensive was designed to end the war by a complete defeat of the enemy which would compel them to accept Germany's terms of peace. The representative of the Foreign Office at the Supreme Command reported on 14 December 1917 that 'the generals are talking now very big and are full of the idea of smashing the

[1] J. W. Wheeler-Bennett, *Brest-Litovsk* (London, 1938), p. 37.
[2] O. Czernin, *Im Weltkriege* (Berlin, 1919), p. 334.
[3] *UDZ*, i–iii.

enemy'.[1] The Supreme Command even pressed the Chancellor —now Count Hertling—to declare publicly that he did not any longer feel bound by the Peace Resolution of the Reichstag, and not only the Crown Prince but even the Kaiser agreed. One has the impression that the generals were absolutely sure of the success of the planned offensive. But what if it failed? This question was put to Ludendorff by Prince Max of Baden in an interview at Kreuznach of 19 February 1918. 'Then Germany must perish!' was Ludendorff's brutal answer.[2]

If this were to be the consequence of failure, was it not then Ludendorff's duty to try and see whether it was not possible to come to an understanding with the enemy? Surely no moment could be more propitious than the time *before* the offensive of which the enemy was afraid. Some weeks before this interview President Wilson had proclaimed his Fourteen Points, which, however hard they might be from the German point of view, did not amount to Germany 'perishing'. But since we have seen that the generals firmly declined any peace without annexations in east and west, we cannot be surprised that they never allowed their thoughts to dwell on the possibility of a failure and that Ludendorff rejected out of hand the proposal, laid before him in February in a thoughtful memorandum by Friedrich Naumann and others, that the military offensive should be preceded by a political offensive, to wit, an 'unambigious declaration of the government on the future restoration of Belgium's sovereignty and integrity'.[3]

The great German offensive began 21 March 1918. In spite of enormous initial successes, it had to be stopped in the first days of April without having reached its strategical goal Amiens, let alone without achieving a breach through the enemy front. A second offensive against another point of the front began on 9 April. It was still less successful and had to be stopped on 1 May. The third offensive against the Chemin des Dames began in the last days of May and ended on 5 June. The Germans had made considerable gains in territory, but their front had become so disadvantageous that the situation was worse than before. Strategic successes were nowhere accomplished.

[1] *Ibid.*, ii.142

[2] Max von Baden, *Erinnerungen und Dokumente* (Stuttgart, 1927).

[3] *UDZ*, ii. 137; Max von Baden, *op. cit.*, p. 233.

The aim of the offensive had been to smash the Anglo-French front completely before the Americans arrived. Could Ludendorff believe that there was still any way of reaching this objective? He had seen that thousands of well-fed and well-armed American soldiers had already participated in the fighting, and he could not have any doubt that their numbers would increase by many thousands from week to week, while it became more difficult from week to week to fill the gaps caused by the enormous losses of the German army. Other German generals saw clearly that the game was up. Crown Prince Rupprecht of Bavaria, Commander-in-Chief of an army group, wrote on 1 June to Chancellor von Hertling that now was the time to begin peace negotiations and to make the necessary declaration about Belgium. He stated clearly that

> General Ludendorff also thinks it very unlikely that we can obtain a decisive victory which would crush the enemy. He only hopes for deliverance by a *Deus ex machina*, that is the sudden collapse of one of the Western powers, analogous to the collapse of Russia.[1]

What did Ludendorff do to inform the government and people of Germany that there was no longer any hope of smashing the enemy?

The Foreign Secretary von Kühlmann said in a speech before the Reichstag on 24 June, that 'an end of this gigantic war could hardly be expected from military decisions alone without any diplomatic negotiations'.[2] This sentence was taken almost textually from a memorandum of Colonel Haeften, an officer of exceptional political understanding, the chief of the military department of the Foreign Office. Haeften had laid this memorandum before Ludendorff, and the general had communicated it to the Chancellor with the remark that he agreed with its essential points. In spite of that, the morning following Kühlmann's speech the Chancellor got a telegram from Hindenburg complaining that this speech had made a disastrous impression on the army. A spokesman of the Supreme Command said in a press conference that it had been most painfully surprised by the speech. The generals compelled the emperor and the Chancellor von Hertling,

[1] *UDZ*, ii. 191.

[2] *Ibid.*, ii. 200; Kühlmann, *Erinnerungen*, p. 572.

who called himself an old and exhausted professor of philosophy, to dismiss Kühlmann, and the German people was, of course, more than ever convinced that the war would end with a military decision, that is by an overwhelming German victory.

The new Foreign Secretary von Hintze was a little more sceptical. In the middle of July, a few days after having accepted his new post, he asked Ludendorff quite precisely whether he was sure that he would defeat the enemy definitely and decisively by his offensive. Ludendorff answered, 'I reply to this question with a firm "yes".' 'Ludendorff's reply', writes Hintze, 'gave me the easy and most promising role of putting the stamp of a victorious peace on an assured victory.'[1]

The illusion lasted only a few days. On 18 July the Germans were defeated by Foch's counter-attack near Soissons. Now the German Supreme Command had definitely lost the strategic initiative. Did it at once inform the government that the situation had changed completely? Not at all! The Under-Secretary of State von Radowitz wrote on 1 August from General Headquarters in Spa to the Vice-Chancellor von Payer: 'The Supreme Command is completely confident in spite of the failure of our last operation. Ludendorff has spoken very hopefully. He hopes to be ready for new deeds within a short time.'[2] A week later, on 8 August, followed the defeat which Ludendorff called 'the black day of the German army'.

Now, at last, Ludendorff warned the emperor, but towards the government he continued to dissimulate, concealing the enormous dangers inherent in the situation. A few days after 8 August a conference was held in Spa between Hertling and Hintze on the one hand and Hindenburg and Ludendorff on the other. The generals admitted that the German offensive was over, but they asserted that the defensive attitude into which they were now forced would break the enemy's will to go on fighting and would compel him to make peace. 'Not by one word or one syllable did Hindenburg or Ludendorff even hint that they concluded from the military situation that diplomatic steps to bring about peace were indicated', says Hintze.[3] Still more characteristic is Ludendorff's attitude in upholding his demands concerning Belgium, which could manifestly only be put into effect in the case of an allied defeat. In the Crown Council of 14 August it was not the

[1] *Ibid.*, ii. 387. [2] *Ibid.*, ii. 213. [3] *Ibid.*, ii. 388.

generals but Hintze who steered the discussion on to the military situation. Now Hindenburg made a speech, the aim of which was certainly to instil a more optimistic view into the emperor and the statesmen. Hintze formulated it in the protocol in this way: 'The Field Marshal *hopes* that we will succeed in keeping our foothold on French soil and thereby in the end enforce our will upon the enemy.' Ludendorff altered this draft by changing 'hopes' into 'agrees' (*führt aus*).[1] In this way he not only associated himself with Hindenburg's false optimism, he exaggerated it still further in order to keep the desperate situation from the responsible statesmen, and in fact he succeeded in deceiving Hertling. True, there was some talk about peace negotiations to be opened through the mediation of the king of Spain or the queen of the Netherlands, but not in the sense that they were urgent. On the contrary, a recommendation was made to wait until after the next German millitary success.

This success never came. The situation deteriorated more and more, not only militarily, but also politically by the increasing unwillingness of Germany's allies to continue the struggle. One episode during these weeks is characteristic. Vice-Chancellor von Payer was convinced that the time had come for a frank declaration about the restoration of Belgium. He travelled on 24 August to Avesnes, where the Supreme Command had its Headquarters, and laid a draft of this declaration before the generals. Ludendorff asked for the inclusion of the following sentence: 'In return for it we demand our colonies and the abandonment of Calais by England.'[2]

Most military authorities are now agreed that after the defeat of 8 August the right thing to have done would have been to withdraw the German army from French and Belgian territory and to mass it on German territory on a much shortened line. We cannot suppose that a man of outstanding military ability like Ludendorff was the only one not to see this. Why did he not do it? The answer can only be: for political reasons. This withdrawal would have been a confession of defeat not only to the enemy but to the German people. He feared that it would cost him his popularity, the basis of his political domination. A new government would have to be formed, perhaps on a democratic basis, which would go its own way and would not depend on his advice. A new offer

[1] *UDZ*, ii. 390 [2] *Ibid.*, ii. 385.

of his resignation would not have terrified this democratic government or even the Kaiser. On the contrary, it would perhaps have been gladly accepted. Therefore he continued to fight, sacrificing many thousands of valiant soldiers, hoping against hope that the tide would turn again. 'He clung to a straw,' said one of his officers.[1]

At last, on 28 September, Ludendorff was overawed by the dangers of the situation. He not only felt that a prolongation of the struggle was impossible; he was afraid that a catastrophe, a break-up of the front might happen any day. Hindenburg, whom he informed of his opinion, agreed. The next morning, Hintze arrived at Headquarters. Ludendorff told him point-blank that the situation of the army necessitated an immediate armistice in order to prevent a catastrophe.[2] Hintze objected that 'the sudden transition from the flourish of the trumpets of victory to the funeral song of defeat would have the gravest consequences for army, people, monarchy and empire'. He explained to the generals that simultaneous with, if not prior to the demand for an armistice the German government must declare its readiness to conclude peace. Ludendorff conceded this, but emphasized that the one thing necessary was the immediate conclusion of an armistice. The conference concluded with a remark from Hindenburg which shows in an almost incredible manner how little he understood the political situation: the Secretary of State should insist that the peace treaty contain the annexation of Longwy and Briey by Germany.[3]

I cannot relate here how the sudden declaration of the Supreme Command led to the chancellorship of Prince Max von Baden, how the unfortunate Prince exhausted without success every resource open to him to avoid what he regarded as the false step of appealing for an immediate armistice, how his note of 4 October requested President Wilson to restore peace on the basis of his Fourteen Points and immediately to conclude an armistice. I also have to leave out the story of the exchange of notes between Washington and Berlin. But I must point out that the generals did not in the least understand what were bound to be the inevitable consequences of their step. Prince Max tried to make Hindenburg understand that the acceptance of Wilson's Fourteen Points in-

[1] *Ibid.*, ii. 249, 403.

[2] *Ibid.*, ii. 400.

[3] *Ibid.*, ii. 405.

volved the loss of Alsace-Lorraine and of Prussia's Polish provinces. The Field Marshal answered that 'the Supreme Command is prepared to consider the cession of small parts of Alsace-Lorraine, but the cession of eastern parts of Germany is for us out of the question'. He nevertheless agreed to the acceptance of the Fourteen Points.

The root of the matter is that Ludendorff clung to the illusion that the enemy would concede an armistice, which would allow him to renew the war if the General Staff did not accept the enemy's conditions of peace. He and Hindenburg always talked of a rest-pause for the army. But that was the very thing that the enemy could and would not concede under any circumstances. Ludendorff had only to ask himself what would have been his own attitude if the situation had been reversed. True, the enemy did not know exactly how weak the German position was, and Haig, for instance, warned against asking for terms which would be declined by the Germans. Nevertheless, the allied statesmen and generals were agreed that the armistice had to end the fighting completely and definitely. The German generals were very bad psychologists if they did not expect that.

More disastrous still was their lack of psychological insight in failing to foresee the inevitable effect of their sudden capitulation on the morale of the German army and the German people at home. The effect was all the greater, because military propaganda had always painted a rosy, much too favourable picture of the situation. When an emissary of the Supreme Command revealed the black situation for the first time without embellishment to the party leaders, these experienced politicians broke down completely, not least the leader of the Conservative party, Herr von Heydebrand, a man of high intelligence and strong will-power.[1] But Ludendorff was surprised by this crushing effect of the revelation. It goes without saying, that the effect was all the more crushing still with the common man and woman, who at home and at the front had suffered terribly for four long years in the hope of victory.

It cannot be denied that even before this catastrophe a good deal of subversive agitation had been going on, nor that it was often directed against the person of the emperor, who during his long reign had done his best to embitter the Socialist opposition

[1] *UDZ*, i. 359.

by his foolish words. That he had shown himself incapable of fulfilling his public promise of universal suffrage for Prussia added contempt to hostility. But this subversive agitation had not been effective so far as the great mass of the German people was concerned, as long as it believed that there was the hope of a favourable conclusion of the war. A large part, if not the majority of the people, considered as favourable a peace which gave Germany her old frontiers, in the same way as the Peace of Hubertusburg had done for Prussia in the eighteenth century. All these people felt now that a peace of this kind had been prevented by the annexationists. It came about exactly as Friedrich Naumann and his friends had prophesied in their memorandum to Ludendorff of February before the offensive. 'The bloodshed which threatens us is immense. The German people will bear it only if it feels that the enemy has left us no other choice'—that is, if it is convinced that peace is not to be had by renunciation of annexations, particularly in Belgium. Everybody knew that the generals had blocked this way. But it was inevitable that innumerable Germans considered not only the generals but the emperor too responsible. He was not only the 'Supreme War Lord', he had always exhorted the people to look at him as the true and only leader. It was the inevitable consequence of his own attitude that he had to bear the responsibility for the defeat. Most people did not know that he had been sometimes more reasonable than the generals and had only given in to their pressure. But that would not have altered their verdict. They would have said that this proved all the more his inability to fill his exalted position. When Wilson's note of 23 October distinguished between the German people and the 'monarchical autocrat', millions of Germans accepted this distinction willingly. Even an undoubted patriot like Noske asked publicly for 'a great gesture from the bearer of the crown'.[1]

At this moment there was still a possibility of maintaining the German monarchy as an institution. If the Kaiser had abdicated, not even the Social-Democratic party would have asked for a republic. Prince Max saw this quite clearly and did his best to impress on William the necessity of abdication. But in order to elude the chancellor's influence, William fled to his generals, and the generals upheld him in his unreasonable and fatal attitude.

Ludendorff was no longer found among these generals. A final

[1] Max von Baden, *Erinnerungen*, pp. 491, 497.

attempt of the Supreme Command to make a policy of its own, contrary to the policy of the Chancellor after Wilson's note of 23 October, had brought about his dismissal.[1] The new democratic cabinet was now stronger than the general, who had lost his popularity. He was succeeded by a general of much clearer and wider political understanding, Groener, who had during the war worked together successfully with Social Democrats and trade unionists. But even Groener contributed to the downfall of the monarchy, because he could not free himself in this hour of decision from the traditions of the German officer. On 6 November, when the sands were manifestly running out, he met Ebert and other leaders of the Social-Democratic party; they urged him to bring about the abdication of the Kaiser, because this alone would save the monarchy. Groener refused because he believed himself bound by his military oath. But, contrary to other generals, Groener saw in later years that he had made a tremendous mistake and confessed publicly that he repented his negative attitude.[2]

It was not the generals, but the admirals, who were responsible for the final stroke, the naval mutiny. They brought it about by their attempt to lead the fleet in these last days of the war into a great naval battle against the British Navy. Hans Delbrück has called it a 'heroic madness'. But it was something worse still. It was a rebellious attempt to cross the policy of the government, which the admirals had kept in the dark about their plan. Thus, in the last moment, the problem of the relations between the civil and military power, unsolved for so many years, lurked once more in all its tragic might.

And another thing too became clear: the total absence of any will to resist the rebellion anywhere. It was the same a few days later in Berlin, when the revolutionaries led the working men of the factories of eastern Berlin on in an attack on the government quarters. There were many officers in Berlin, quite enough to repulse this attack successfully, if only they had the will and determination to resist. But not a hand was raised, not a shot was fired. Neither the General Officer Commanding Berlin nor the officers had the slightest wish to exert and sacrifice themselves for the falling monarchy and dynasty. Nobody any more believed in the old system.

[1] Max von Baden *Erinnerungen*, p. 500. [2] *Ibid.*, p. 592.

Now the bitter hour for the Supreme Command had come. For years it had boasted that it voiced the feeling of the army. Now it could not help seeing that it did not in the least know how the army really felt. The generals had to confess to the Kaiser that this army could no longer be depended upon, that it plainly refused to fight under his leadership against the revolution. Groener told him bluntly: 'The army no longer stand behind Your Majesty.' And Hindenburg himself, the Field-Marshal, who till then had appeared like a rock, had to tell William: 'I must advise Your Majesty to abdicate and to proceed to Holland.'[1] Hindenburg advising William to flee ignominiously! The wheel had turned full circle. A few hours before, the republic had been proclaimed in Berlin. The last act of the tragedy was played out.

I have followed only one thread out of the many which make up the vast fabric of the catastrophe of Bismarck's German Empire. But this thread is of particular importance. It led to the legend of the 'stab-in-the-back'. Among the authors of this infamous 'Dolchstoß-Legende' are Ludendorff and Bauer and other members of the former General-Staff, who found it a very convenient instrument for covering up their own all-important contribution to the defeat of Germany and the downfall of the German monarchy.

It was the guilt of the German people that it accepted this legend from vanity and credulity, out of indoctrinated worship for the generals and everything military and out of disappointment about the fruits of the revolution and of the peace. And we all know how terribly it was punished for it.

[1] Wheeler-Bennett, *Hindenburg*, p. 202.

EDWARD III AND THE BEGINNINGS OF THE HUNDRED YEARS WAR

By G. Templeman, M.A.

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HISTORIANS have long been concerned with the circumstances in which the Hundred Years War began, and their interest shows no sign of slackening. During the present century not a little has been added to our knowledge of the matter through the labours of scholars in this country, in the United States and on the continent. This means that by now a formidable array of evidence bearing on the subject has been brought to light, while numerous books and articles, packed with comment and explanation, lie ready to hand. It is true that important sources still remain unprinted, although not unused, but the scholars of the eighteenth and nineteenth centuries made available most of the chronicles and some of the records, while more documents have steadily found their way into print during the last fifty years.[1]

The present century has also seen the publication of some important studies of particular problems connected with the outbreak of the struggle. Eugene Deprez has examined the complicated dealings of the French, English and Papal courts with one another in the years 1328 to 1342.[2] Professor Lucas has carefully scrutinized the affairs of the Low Countries between 1326 and 1347 in order to show how considerable an influence they exercised upon the course of events which led to the beginning of the war.[3] The French historian Viard died without producing that great study of the reign of Philip VI which was to have crowned the labour of a lifetime. Nevertheless his many articles shed a flood of fresh light upon the working and policy of the French

[1] There is a full bibliography of all but the most recently printed material in H. S. Lucas, *The Low Countries and the Hundred Years War, 1326–1347* (Ann Arbor, 1929).

[2] *Les préliminaires de la Guerre de Cent Ans* (Paris, 1902).

[3] Lucas, *op. cit.*

government in the crucial years before 1337.[1] Our knowledge of English diplomatic practice in these years has been much enlarged by Mr. Cuttino's scholarly work.[2] The part played by the Papacy has also received particular attention, not only in Mollat's general work on the Avignonese popes, but also more recently in papers by Miss Helen Jenkins and M. Renouard.[3] These and other similar modern studies bear directly upon the political, diplomatic and military circumstances which attended the start of the war, but much other modern work, not written with this immediate purpose in view, does contribute usefully towards a better understanding of these issues.[4]

Although it is probable that economic motives played little or no part in provoking the conflict, economic considerations in one form or another could never be entirely thrust aside even by those deeply immersed in the absorbing business of political intrigue and military preparation. Alliances had to be paid for, and, particularly in the Low Countries, they were apt to prove worthless if the commercial interests of those concerned were not taken properly into account. Economic historians have of late done a great deal to illuminate these matters. There is Laurent's study of the cloth trade in the Low Countries, de Sturler's work on the duchy of Brabant, and the contributions of our own Eileen Power and George Unwin, to mention only a few of the most important.[5]

[1] The following are of particular importance: 'La France sous Philippe de Valois', *Revue des Questions Historiques*, lix; 'Itinéraire de Philippe de Valois', *Bibliothèque de l'École des Chartes*, lxxix, lxxxiv; 'Philippe de Valois, début du règne', *ibid*, xcv.

[2] *English Diplomatic Administration, 1259–1339* (Oxford, 1940).

[3] G. Mollat, *Les papes d'Avignon* (6th ed., Paris, 1930); H. Jenkins, *Papal Efforts for Peace under Benedict XII, 1334–1342* (Philadephia, 1932); Y. Renouard, 'Les papes et le conflit franco-anglais en Aquitaine de 1259 à 1337', *Mélanges d'Archéologie et d'Histoire*, li (1934).

[4] A case in point is the American symposium, *The English Government at Work, 1327–1336*, vols. i–iii, edited by J. F. Willard, W. A. Morris, J. H. Strayer, W. H. Dunham, (Medieval Academy of America, 1940–50).

[5] H. Laurent, *Un grand commerce d'exportation européen au Moyen Age*; *La Draperie des Pays-Bas en France et dans les pays mediterranéens* (Paris, 1935); J. de Sturler, *Les relations politiques et les échanges commerciaux entre le duché de Brabant et l'Angleterre au Moyen Age* (Paris, 1936); E. E. Power, *The Wool Trade in English Medieval History* (Oxford, 1941); G. Unwin (ed.), *Finance and Trade under Edward III* (Manchester, 1918). See also R. Boutrouche, *La crise d'une société. Seigneurs et paysans du Bordelais pendant la Guerre de Cent Ans* (Paris, 1947).

Finally much more is now known of the complicated social and economic background against which the political manœuvring of the years 1327–37 was conducted. It is clear that the English kingdom was but poorly endowed by contrast with the great material resources of its French neighbour. The historian, who cannot lightly set aside these considerations of material strength which are the solid foundations of military power and political influence, is now able to form at least a rough estimate of their significance.[1] In short, the pattern of events in the years 1327–37 is now more fully revealed, and the general situation of those soon to be at grips is much better known.

Yet this considerable enlargement of knowledge, contrary to what has happened in so many other cases, has not wrought any striking change in the answer given by historians to the question why the conflict started at all. That answer, put shortly and rather crudely, is this. The French possessions of the English kings were the real root of the trouble. Ever since the agreement of 1259, constant disputes about these lands had poisoned the relations between the English kings and their French overlords. Edward III decided to have done with the interminable skirmishing and haggling over these matters in which his predecessors had involved themselves. Where argument had failed, force was now to be tried.[2]

This view of the matter has been slowly and not very systematically built up over the last two hundred years or so. Its elements have been there all the time, but, as knowledge of the problem has increased, they have been more carefully dovetailed together, and their setting has been made more elaborate. The notion was formulated by Hume, albeit somewhat roughly, for he did not look much beyond the immediate circumstances of Edward III's own time. Indeed, he was more concerned to lament the effects

[1] There is a brief but masterly sketch of these matters in E. Perroy, *La Guerre de Cent Ans* (Paris, 1945), pp. 12–56.

[2] Like most folk who have wrestled with this subject, I have found myself in a difficulty over the use of the terms Gascony, Guienne and Aquitaine. Although the purist may shudder, these terms are in fact, almost of necessity, used very loosely. There is a comfortable if not very scholarly precedent in the practice of the Chancery. There the clerks often used these terms interchangeably to denote the English lands in south-western France, and that is what I have done.

of the war than to search out its causes.[1] Nevertheless he did recognize that the dispute over Gascony, which 'lay so much exposed to the power of Philip', acerbated by French interference in the Scottish war, was at the root of the matter, and disposed Edward to press his claim to the French throne, something he would otherwise never have bothered to do.[2] Hallam was of much the same opinion. Here is what he says on the point:

> Probably Edward III would not have entered the war merely on account of his claim to the French crown. He had disputes with Philip about Guienne, and that prince had, rather unjustifiably, abetted Bruce in Scotland.[3]

Longman, following Sismondi, gave this same idea a further twist:

> The resolve of Philip to wrest Aquitaine from the rule of the king of England, and Edward's determination to keep it were, seemingly, the main and true cause of the War.

Then, probing a little more deeply, he goes on:

> Philip wished to destroy feudalism; and to reduce Aquitaine to the same state of dependence on the throne of France as that to which he had reduced all the other great fiefs held of the French crown, and thus to consolidate France into one homogeneous kingdom. His object was a wise one; but, it was not to be expected that Edward would quietly submit to occupy the comparatively degraded position destined by Philip for him.[4]

Stubbs tackled the problem rather differently, for he was concerned to divide the guilt of starting the war rather than to explain why it began. Moreover, since he had previously condemned the retention of Gascony by Edward I as inconsistent

[1] 'From this period we may date the commencement of that great animosity which the English nation has ever since borne to the French, which has so visible an influence on all future transactions, and which has been, and continues to be, the spring of many rash and precipitate resolutions among them', *History of England.* (ed. 1841), ii. 143.

[2] *Ibid.*, ii. 140–1.

[3] *Middle Ages* (ed. 1868), i. 53.

[4] *The Life and Times of Edward III* (London, 1869), i. 94.

with the national interests of the English kingdom, he was not likely to summon up much sympathy for Edward III's difficulties in France. Nevertheless his verdict was not substantially different from that of his predecessors. Edward's claim to the French crown was frivolous. On the other hand

> the breach of the peace came from Philip who, not content with protracting a series of irritating and unmeaning negotiations about old quarrels, had conceived the notion of using the Scots as a thorn in the side of England and of winning Gascony by battles fought on British ground . . . Philip thus made the war inevitable; Edward by assuming the title of king of France made the quarrel irreconcilable.[1]

Scholars who have re-examined the whole matter during the present century have found no reason to challenge the older view that the English possessions in Aquitaine were at the bottom of all the trouble. They have, however, done a great deal to search out the ramifications of this fact, and to mount it on a better understanding of what had gone before. In particular they have contrived to show that the problem was of such a kind that there was little hope of solving it by peaceful means. It was not merely that the English kings were required to behave towards their French suzerains in a manner ill suited to the power and dignity they enjoyed elsewhere. No successor of Philip Augustus could number the English king among his vassals with anything but anxiety and foreboding. Memories of Angevin greatness were deep rooted and tenacious. Small wonder, then, that ever since the treaty of 1259 constant friction, flaring at times into open strife, had marked the dealings of those who ruled in England and France with each other.

The successors of St. Louis, moved by fear as well as by hope of gain, matched interminable negotiations with efforts to vex and harry their English vassals whenever they had the chance. Thus they thrust a meddlesome finger into the affairs of Scotland, but their most rewarding opportunity for trouble-making came in Aquitaine itself. There they regularly used legal process as a handy instrument to prise away small bits of the English lordship, and also to loosen the joints which held the rest together. Then, from time to time, they would insert the crowbar of military

[1] *Constitutional History of England* (ed. 1896), ii. 396–7.

force. Hitherto its action had always been stayed at the moment when the weakened structure was threatening to topple over in ruins, but obviously the end could not be long delayed.

Henry III, his son, and his grandson found themselves in a position of extraordinary difficulty. They might have cut their losses and abandoned their French lands altogether, but there is no evidence that such a step was ever contemplated, except when rumours that this might happen were circulating in Bordeaux just before Edward II was deposed.[1] Instead they chose to stand firm for their rights, and their problem was how to do it. A strong ruler, like Edward I, tried to tighten his grip in Aquitaine by overhauling his government there. He also deliberately stirred up trouble for the French elsewhere, particularly in the Low Countries, in order to relieve the pressure in Aquitaine. But his efforts met with only moderate success, for his French opponents were astute men not easily fooled. Edward II fumbled with Gascon affairs as he did with so much else, and his faltering led inexorably to a further weakening of the English situation there. It was thus a very dilapidated and troubled inheritance which came to Edward III.

Modern scholars have looked more closely into the immediate circumstances in which the war began than their predecessors were able to do. Deprez concluded that, from the outset, Edward III was intuitively aware that the problem of Gascony could not be solved except by force. He also thought that the fumbling, tortuous policies of Philip VI gave Edward every encouragement to violent action, while papal diplomacy, though well intentioned, failed to keep the peace because it never probed the real causes of the trouble.[2] Vickers held that war was inevitable between Philip and Edward because 'feudal ideas could not solve a problem of such complicated relationships as existed between the two sovereigns.' All the same, he thought that Edward did his best to postpone the struggle so that he might promote his Scottish plans without hindrance, and that he persevered in this intention until the autumn of 1336, when Philip's meddling had shown it was no longer possible.[3] Professor Perroy, who has made the most recent examination of what he rightly calls this thorny problem, thinks

[1] E. C. Lodge, *Gascony under English Rule* (London, 1926), pp. 73–4.
[2] *Les Préliminaires de la Guerre de Cent Ans*, pp. 400–6.
[3] *England in the Later Middle Ages* (London, 1913), pp. 156–8.

rather differently. He is concerned to emphasize the slow and haphazard way in which the situation that generated the war was shaped. He does not think that the struggle was carefully premeditated by Edward III or anybody else. To begin with, the pressing of Edward's claim to the French throne in 1328, a chance too good for the English to miss, superimposed a dynastic conflict upon the festering problem of Gascony. That action provoked an immediate and unhesitating response from Philip and his advisers. They put relentless pressure on the English king in the matter of his French fief, pressure that was harder than it would have been in ordinary circumstances, pressure which Edward was in no position to resist. He was compelled to do homage, and, by 1331, he was to all appearances as tightly enmeshed in that same web of troubles with his French overlord as ever his father and grandfather had been. There was then no threat of a great armed conflict, nor did those most concerned appear to have considered it a likely possibility.

Yet, Perroy argues, in the course of the next few years the whole prospect was completely altered for the worse. Nor is he content to lay most of the blame for this, as Deprez and other modern writers have done, on Philip VI. He holds that Philip was anxious to do his duty as he understood it, but that he was constantly tempted to imprudent action by a lack of political common-sense. Thus he did not deliberately arouse the implacable hostility of Edward III. His fault lay elsewhere. It lay in his failure to realize that the things he did could have no other result. Philip's scrupulousness in refusing to abandon the Scots wrecked the agreement with Edward over Gascony, which was on the verge of being concluded in 1334. Acts of this sort gave rise to fear and resentment on the other side of the Channel, which Philip's conduct over the projected crusade and in the later stages of the Scottish war did nothing to allay. As for Edward, he required little persuading to believe that he was the chosen victim of deliberate French provocations, which thwarted his policies at every turn, threatened to destroy his Gascon inheritance, and were nourished by every concession he made. So by the autumn of 1336 he seems to have come to the conclusion that force was the only remedy for this intolerable state of affairs. When the struggle did begin in earnest, Edward and the others were soon caught in its tentacles, from which they never contrived to escape,

and which squeezed their original purposes into a variety of strange new shapes.[1]

From all this it is clear that the salient facts of the matter have been established with reasonable certainty, and their causal relationships carefully and exhaustively tested. In particular, it is generally recognized that Edward III bestrides the scene, for he made the war, even if others helped to provoke it. He stands a portentous figure, who not only gathered up in his own person the suspicions and resentments of many years, but who, feeling himself thwarted by Philip VI, deliberately reached for the sword. By no means all historians have shared Hume's opinion that Edward was a genius, or agreed with Hallam about what he called the splendour of Edward's personal character.[2] Some have thought with Stubbs, who described him as ambitious, selfish, unscrupulous, extravagant and ostentatious, and added that, had he been without foreign ambitions, he might well have risen to the dignity of a tyrant or sunk to the level of a voluptuary.[3] Others, like Professor Perroy, feel that Edward's powers were only slowly unfolding and his intentions were only gradually hardening in the years before the war began. But at least they are all agreed on one thing; namely, that by the end of 1336 Edward had become convinced that war with Philip was inevitable. He had realized that the hand that was choking his ancestral power in Aquitaine and disarranging his Scottish plans could never be persuaded to relax its grip by any other means.

There are, however, two further considerations which have a direct bearing on Edward's part in shaping the circumstances in which the war began, and which have not hitherto received perhaps quite the attention they deserve. The first is a general point. It concerns the nature of politics in that age, and the importance which should be ascribed to it in this particular connection. The second is more specific. Edward III inherited a considerable body of painfully acquired experience of how to deal with the French kings. Did he make use of it, and, if he did, did he learn from it? A casual glance would suggest that these matters have little connection the one with the other. But in fact they

[1] Perroy, *op. cit.*, pp. 57–86.
[2] D. Hume, *History of England*, ii. 219; Hallam, *Middle Ages*, i. 51.
[3] Stubbs, *Constitutional History*, ii. 393.

were linked, and, together, they were not without influence on the course of events.

When probing these things, it is worth remembering how speculative many of our judgments of Edward's purposes must, in the nature of the case, remain. It is true that, in the years before the war began, the king often went out of his way to explain to those most interested what he intended to do and why he intended to do it. He had a very shrewd eye for the value of what we should now call Public Relations, and he, or at any rate those who served him, were thoroughly skilled in the gentle art of retrospective justification. But such pronouncements, as cynics have frequently observed, were not always meant to be as informative as they seem to be. Nor, in Edward's case, did his actions always tally with public declarations.[1] Thus historians have usually and wisely preferred to judge what Edward intended from what he regularly did rather than from what he occasionally said. Yet this is no easy task, for however skilfully it is performed a residue of doubts and uncertainties is left behind. For this reason it is useful to look more closely than has customarily been done at the nature of politics in that age with the particular purpose of discovering something about the conventions which governed the outlook on affairs possessed by those in authority. It may be difficult to establish the precise motives of a man like Edward III, and his personality may, to a large extent, be hidden from us, but if we can grasp the system of assumptions, the framework of accepted notions, within which his political thinking was conducted, that will be of some help at least in understanding more exactly what he was really about.

That the politics of the age had a distinctive character is clear

[1] Before 1337 Edward III wrote on many occasions to individuals and to groups explaining and justifying both what he had done and what he intended to do. The recipients of these confidences included the pope, the king of France, the people of London, his vassals and his officers in Gascony, and the English bishops and clergy. A representative selection of these documents can be found in T. Rymer, *Foedera* (ed. 1707), iv. 449, 529, 540, 553, 557, 568, 650, 658, 705, 742. An example of the economical use made of the truth on these occasions is to be seen in the letters written between August 1332 and May 1333, when Balliol's invasion of Scotland was in progress. At first Edward III strove to represent himself as a disinterested and somewhat shocked spectator, and then to justify his intervention on the ground that the Scots had first attacked him (*ibid.*, iv. 529, 540, 553, 557).

from what happened in Aquitaine and Scotland, in the Low Countries, in Italy and the Empire. However, Aquitaine will serve as a convenient example, since events there had an immediate bearing upon the beginnings of the Hundred Years War itself. The point at issue in Aquitaine was clearly something more than a territorial dispute of the kind which has become familiar in European politics during the last few centuries. The modern student can, if he chooses, say that what was at stake was whether these Gascon lands were to be included in the kingdom of France, or whether they were to remain under the rule of the English king. Yet it is very likely that such a statement of the case would have seemed almost meaningless to those who were actually busied in the dispute. They certainly thought of the matter in very different terms. They would have said it was a quarrel about the adjustment of some peculiarly tangled jurisdictional and tenurial relationships in which the rights of both parties were deeply embedded. To explain why it proved so difficult to find an acceptable solution they might well have pointed to two other facts. First, two kings were involved in the delicate relationship of lord and vassal, a consideration which did not make the handling of the problem any easier. Second, the dispute had already been smouldering for the best part of seventy years when Edward III appeared on the scene, while bad faith and suspicion on both sides had inflamed the controversy to an alarming extent. At the same time, the contemporaries of Edward III and Philip VI did not find it strange that they should wrangle over things of this kind. Indeed, such disputes were the very stuff of politics as they knew them; of politics among princes, and of politics between princes and their subjects. Rights of this order, rights which conferred status and jurisdiction, were the sinews of power in that age, because they were the only effective means by which authority and profit could be acquired. As such they were coveted and schemed for unceasingly. They could be bought, sold and gained by marriage. They might involve no more than the temporary custody of a tiny estate, with the perquisites and pickings to be had from it, but they could also bestow the hereditary possession of that great bundle of privileges annexed to the dignity of count, duke, king or emperor. Often such rights were ill defined. Then the powerful could seize upon them and, while pretending to reassert them in what was alleged to have been their

original form, could pull and twist them in ways they themselves desired.

In a sense these rights can be described as feudal, but such a description needs to be carefully hedged about with explanation. They had, it is true, been shaped, often in minute detail, by the strict feudal practice of earlier centuries. In many cases the legal forms in which they were originally cast had been toughened by the passage of time and by regular use. Nevertheless, by the beginning of the fourteenth century, although their form remained unyielding, the spirit in which these rights were used, and the circumstances in which they had to operate, were both vastly different from what they had been in the twelfth century. In particular, the eroding action of political, social and economic change had stripped away those characteristically feudal notions of personal loyalty and dependence. Now, therefore, such rights had become in fact what they had always threatened to become; nothing more than elaborate property rights regulated by feudal conventions. The politics of the age which saw the beginnings of the Hundred Years War were almost wholly concerned with the manipulation of the more important of these kinds of rights. In itself, this is a fact which has a direct bearing upon our understanding of the acts and policies of Edward III, but lying behind it is something else not less significant. The kings of this period were in no real sense sovereign princes in the modern meaning of the term. Of course a high doctrine of monarchy had already been impressively proclaimed by some of the great lawyers of the thirteenth century. Bracton had written of the king as one without peer in his own realm, as the vicar of God, subject to no man but only to God and the Law. Beaumanoir held the same opinions, and expressed them in even more practical terms, while the Castilian jurists were no less emphatic.[1] Moreover, the king's person had long been invested with peculiar sanctity; a notion which owed much to Christian teaching, but which was also deeply rooted in ancient Teutonic custom.

Yet it is possible to attach undue importance to these things by themselves in studying the age in which the Hundred Years War began. It was not simply that then the theory of sovereignty marched ahead of the practice of sovereignty. The actual situation

[1] R. W. and A. J. Carlyle, *A History of Medieval Political Theory in the West*, v. 359–64.

was more subtle and complicated than that. The kings of the period were quite well aware of the dignity and uniqueness of their regality, but they were content that it should be manifest in familiar and accustomed ways. They could and did subscribe to what Bracton and Beaumanoir had taught, but as yet this had not led them to grasp after new and strange forms of authority. This point is aptly illustrated by the practice of the French kings in the making and receiving of homage. When it was owed to them they sought to exact it in full, since it constituted their title to exercise rights over those who rendered it. This is plain time and again in their dealings with the English kings over Aquitaine after 1259, and not least in the pertinacious efforts of Philip VI between 1328 and 1331 to compel Edward III to render liege homage without equivocation. When the French kings themselves owed homage, as they sometimes did, the situation was significantly different. They desired to exercise the rights to which the act of homage admitted them, but they felt it was inconsistent with their kingship to be another's vassal. As early as 1185 Philip Augustus had declared that, as king, he was neither able nor willing to do homage to anyone. His successors in the thirteenth century felt the same, and they gradually elaborated the convention that homage owed by the king should be rendered through a substitute, a practice which was formally recognized in an ordinance of March 1303.[1] The English kings never quite brought themselves to this point, although they often boggled at the homage they were required to render for Gascony, trying every dodge they knew to diminish its significance and whittle away its implications.[2] The truth is that at this time kingship was first and foremost a matter of exercising the rights belonging to a particular kind of dignity. These rights were similar in character to those enjoyed by a host of other lords, lay and ecclesiastical, but different from them in that the king's rights were usually more extensive and more secure. Successful kings, men like Philip the Fair and Edward I, were those who exercised their rights to the

[1] L. Halphen, 'La place de la royauté dans le système féodal', *Revue Historique*, clxxii. 249–56.

[2] Henry III, Edward I and Edward II tried the experiment of transferring their Gascon rights and obligations to their eldest sons. It is probable that in the circumstances of the time this kind of solution was the one best calculated to secure general acceptance. However, it was not persisted with. Perroy, *op. cit.*, pp. 47–8.

full and even contrived to enlarge them, usually by setting stricter limits to the rights exercised by other people. With these things in mind it has been said that the kings of the late thirteenth and early fourteenth centuries still retained much of the mentality of the great feudal magnate. Conversely it has been argued that in the minds of folk like Philip VI and Edward III the modern idea of sovereignty rubbed uneasily against the feudal notion of proprietary right. Yet all this in some measure distorts the situation of that age. These men did no more, and no less, than share an attitude of mind, an outlook on affairs, which was then common to all who wielded authority in church and state. It was an attitude which did not distinguish between the modern idea of sovereignty and the feudal notion of proprietary right because the need for that distinction was not yet generally apparent.

There is solid evidence that Edward III regarded politics in this kind of way. That it was his principal business to assert what he regarded as his undoubted rights against all and sundry was the unquestioned assumption on which he acted. This is manifest in document after document where stereotyped phrases about asserting, recovering and maintaining his rights occur with monotonous regularity.[1] Such was also the constant preoccupation of that procession of ambassadors who hurried to and from the papal court, or busied themselves in those interminable negotiations on the king's behalf in Scotland and France, in the Low Countries and Germany. For it was with this that his diplomacy was habitually concerned.

But it is in Scotland, and particularly in his dealings with Balliol, that Edward III's attitude to politics and his political methods are most clearly to be seen. There he had more freedom of action than in Gascony, and his purposes were less hindered in finding practical expression. A series of grants made by Balliol to Edward between November 1332 and June 1334 aptly illustrate the point.[2] It is true that they were all wrung from Balliol's necessities, but that makes them even more valuable here because they show what Edward did when he had the chance. Taken together, they demonstrate that the purpose of Edward's policies towards Scotland was to grasp after rights which conferred substantial power and profit in that kingdom. But their acquisition

[1] *Foedera*, iv. 344, 345, 346, 347, 354, 367.
[2] *Ibid.*, iv. 536, 539, 548, 590, 614.

was governed by well-established conventions, and these Edward observed with such scrupulous care that it is hard to believe that he regarded them as of only formal significance. Thus the grant of November 1332 opens with an unequivocal statement that Edward was suzerain, *dominus superior*, of Scotland, and Balliol his undoubted vassal. This had to come first because this right underpinned everything else. Yet it could not remain a mere assertion, Edward's title to possess it had to be properly displayed. Hence there next follows a carefully phrased justification designed to show three things. First, that this privilege had always belonged to the English kings, and came to Edward III by hereditary right. Second, that it had been effectively exercised by Edward's predecessors, notably by his grandfather, Edward I. Third, that for a time Edward himself, and his father, had been unlawfully deprived of their right by Bruce. Yet even this did not suffice, for the title, properly authenticated though it was, had to be solemnly recognized by Balliol in his Parliament.

Edward's title as suzerain established, Balliol's duties as vassal were then set out, together with the pains and penalties which failure to perform them would involve. He undertook to support Edward's privileges in Scotland, and, significantly, in Gascony. One other concession made by Balliol is even more revealing. To explain what was to be done the charter makes mention of the affection and duty Balliol owed to Edward, and of his very proper desire that his overlord should not be out of pocket on his behalf, for, it was said, Edward had involved himself in great expense and run great risks for the sake of his vassal. Accordingly Balliol handed over to Edward all his rights in the town and county of Berwick unconditionally, and promised even more. That promise was fulfilled in June 1334 at Newcastle-on-Tyne, when Balliol granted Edward absolute possession of all his rights, which are carefully listed, in the counties from Linlithgow to the Solway. Edward's intentions here are plain enough. His right as overlord was the essential and valuable thing, to be secured at any cost, but, if opportunity offered, it could and should be made to yield even larger benefits. Properly used, it could be the means by which a proportion of the vassal's most valuable rights were transferred to the permanent and direct use of his overlord.

In the light of all this we may look again at Edward III's problem in Gascony. It has sometimes been said that from the

beginning Edward was convinced of his overlord's determination to deprive him of his French lands altogether, and that his policy towards Philip VI was governed by this assumption. Those who hold this view usually point to the persistent efforts of Philip's predecessors to encroach by force and fraud upon the English lands in Gascony. These, it is said, argue a fixed purpose, a deliberate intention, which only waited upon time and opportunity for its complete fulfilment, and all the signs were that this would not be long delayed. It was something which no man as alert as Edward III could possibly overlook. Yet it is not altogether clear either that the evidence will bear this interpretation, or that Edward might reasonably have been expected to draw this conclusion from it.

If we first take into account what has just been said of the character of early fourteenth-century politics, it is obvious that Edward III's problem in Gascony was of a type then very familiar. It also bore a remarkable resemblance to his problem in Scotland immediately after the death of Robert Bruce, with, from Edward's point of view, one very significant difference. In Gascony he himself had to sustain the part Balliol filled in Scotland. The importance of this fact is greatly enlarged when it is also recognized that Edward's political ideas and his political methods were highly conventional. On the face of it, he was much more likely to have regarded Philip VI in Gascony as a domineering overlord, rather than as one bent on naked expropriation. There are a number of other considerations which lend further support to this reading of the situation.

First among them is the behaviour of Philip VI and his immediate predecessors towards their English vassal. The acid test of their real intentions is provided by the extreme, though still conventional, measures they often felt bound to adopt. Before Edward III's time the duchy of Gascony had been confiscated twice, by Philip IV and again by Charles IV. It is perhaps not without significance that on both occasions the actual conduct of operations had been entrusted to Charles of Valois, father of Philip VI. Each time the French kings, had they been so minded, could have held fast to their conquest and made an end of the English dominion without further argument. Instead they made restitution on terms of such a kind as to argue that their real intention coincided with their declared purpose; namely to bring

a recalcitrant vassal to his senses, and to what they considered a proper appreciation of his duties. Philip VI, for his part, seems to have viewed the matter in much the same light. He was understandably anxious to press Edward III in the matter of his homage, for the claim to the French crown still rankled, but that difficulty was resolved, although not without the accustomed menaces on both sides, in April 1331. Then Philip accepted Edward's homage as satisfactory, released him from the penalties he had incurred because of the imperfect homage he had previously rendered at Amiens, and took a number of other steps designed to put his relations with his vassal on a better footing. As a mark of his particular esteem he also presented Edward with a choice selection of relics, derived, so it was said, not only from the Holy Innocents, but from St. Silvester, St. Laurence and St. John Baptist as well.[1]

Second, there is that constant bickering over smaller matters; things like the precise boundaries of the English lordship in Aquitaine, the payment of damages in settlement of earlier disputes, and the adjustment of jurisdictional rights as between vassal and suzerain. Too much importance can be attached to these things by themselves, particularly by arguing that their very existence proves the intention of successive French kings to destroy their vassal's power altogether. In part, at any rate, such frictions were the ordinary and accepted accompaniment of the type of relationship which existed between Philip and Edward in Gascony. They were often matters over which the principals themselves had little or no direct control. Edward III found great difficulty in keeping his Gascon officers and vassals in order, and there seems little doubt that Philip's seneschals were more zealous in forwarding their master's interests than he intended them to be.[2] Nor is it so very surprising to find that it proved difficult to settle these matters, to quieten this groundswell of Gascon politics. That the will to make a settlement was frequently lacking on both sides is plain enough, for often, as Knighton remarked, Philip and Edward were friends only according to the outside of their faces.[3] But there were other reasons too. The machinery for adjusting such differences was cumbersome and inefficient, its

[1] *Foedera*, iv. 481, 482, 483, 485, 486.
[2] Perroy, *op. cit.*, pp. 43–4; Lodge, *Gascony under English Rule*, p. 74.
[3] Quoted *ibid.*, p. 75.

procedures were highly technical and of their nature dilatory. What is more, even in the ordinary course of things, these disputes multiplied with surprising rapidity. Finally, common experience showed that it was a grievous temptation to a suzerain to encroach on his vassal's rights when opportunity offered. Edward III did this with brutal directness to the hapless Balliol. He cannot have been altogether surprised to find that his own overlord in Gascony was prone to do likewise, particularly because as vassal there he had shown an undutiful readiness to wriggle out of his obligations.

This raises a third point. It is obvious that Edward III recognized his position in Gascony as somewhat precarious. It is equally clear that he understood the intricacies of his legal relationship with Philip VI there very thoroughly. Mr. Cuttino and Professor Rothwell, between them, have made us aware of the great mass of legal opinion about this matter which had been built up since the treaty of 1259 for the use of the English government, and carried forward as a sort of diplomatic stock in trade down to Edward III's own time.[1] Nor, in the years before the war began, did Edward seem to regard the obligations he owed to Philip as of themselves either antiquated or specially degrading. That they were often irksome needs no emphasis, nor does the fact that Edward, as was common among vassals, did his best to make the least of them. Homage could be postponed, and that technically put his duties in suspense, but it might also put his rights in jeopardy. Edward III tried this dodge as his predecessors had done. Like them, he had to come to heel eventually, and his submission, when it came, was even more complete than theirs had been. Again, like a prudent vassal, Edward did not neglect any unusual opportunity of interfering with his suzerain's authority, of putting it even temporarily out of gear, or of hindering its operation. It is not unlikely that this was one of the objects in view when his claim to the French throne was first pressed in 1328. Here there was a useful precedent to hand from his father's time, for Edward II had apparently contemplated similar action in 1317, when Louis X died.[2]

[1] H. Rothwell, 'Edward I's case against Philip the Fair over Gascony in 1298', *English Historical Review*, xlii. 572–82; Cuttino, *op. cit.*, pp. 73–83.

[2] E. Deprez, 'La Conference d'Avignon (1344)', in *Essays presented to T. F. Tout*, p. 306. At the same time, as Professor Perroy reminds us,

There is, however, one other side of the Gascon problem which calls for special mention here. For purposes of study it is convenient to treat Gascon affairs separately; apart, that is, from the other dealings of the French and English kings. Yet it is worth remembering that those who bore responsibility for these matters were unable to make any such neat division. For them the Gascon problem was only one thread in the highly complicated political web they had to manipulate. It was spun from the interests of the French and English kings in the Low Countries, on the Narrow Seas and, after 1295, in Scotland, as well as from the marvellously intricate relationships they each maintained with the princes of Germany, the pope, the emperor and the rulers of the Netherlands. This pattern of politics, which was already firmly established long before either Philip VI or Edward III appeared, was continually subject to violent strains and tensions, while disturbance to one part of it was almost certain to produce trouble elsewhere. Unless it was firmly handled this in turn was always likely to boil up into a general crisis, which invariably affected Gascony severely. This was precisely what happened between 1333 and 1337. It was no deep-laid scheme on the part of Edward III or anybody else. On this occasion the troubles of Scotland acted as the wind which blew the smouldering French and English discords in Gascony and the Low Countries into flame.

The intricate and often confused diplomacy of these years has already been carefully examined by others,[1] but there are some things about it which need further emphasis here.

There is the fact that it was Philip's meddling in the Scottish business which precipitated the general crisis from which the war emerged. The situation which developed in Scotland after the death of Robert Bruce in 1329 was something no one could have foreseen, but Edward III would not have been the kind of man he was had he not done his best to profit from it. From the end of 1332 all the signs were that he intended to devote himself to forwarding his Scottish interests. Not only was he often personally present there, but the transference of so many of the depart-

Edward was in no sense a foreigner in the French kingdom. He spoke the language, he was the son of a French princess, and himself a peer of the kingdom as duke of Gascony and count of Ponthieu. He was also married to a daughter of William of Hainault, herself the niece of Philip of Valois.

[1] Deprez, *Les Préliminaires de la Guerre de Cent Ans*, pp. 83–169; Lucas, *op. cit.*, pp. 167–203.

ments of state to York also argues strongly for this purpose. Equally Philip could not resist the temptation to interfere. By the summer of 1334 his anxieties about the course of events in Scotland were clearly reflected in his actions towards Gascony, for he put an end abruptly to some most promising negotiations designed to settle outstanding differences in the duchy because David Bruce and the Scots were not to be included in the agreement. From then on the crisis widened and deepened as others, like Robert of Artois, took a hand in the business. All the same, it was not until the autumn of 1336 that Edward III and his advisers recognized the full extent of the mischief, when they saw that the confiscation of Gascony was clearly impending. Philip VI had moved slowly with many hesitations and changes of direction, while the shuttle of papal diplomacy had been hurried busily to and fro, spinning a web of compromises, which for a time veiled the real situation from all concerned. Even when an open breach could no longer be avoided, both parties proceeded by well-tried methods. Philip VI ordered the confiscation of the duchy, and Edward III cast around for allies who might help by diversionary manœuvres to relieve the pressure in Aquitaine. The re-assertion of his claim to the French crown seems to have been no more than a tactical move, designed to quieten the consciences of some of his allies and to cause embarrassment to his opponents. Again, when they argued that Gascony was an allodial possession of the English crown, Edward III and his advisers had a precedent to guide them. This doctrine had been strongly pressed by the English envoys on Edward I's behalf when Boniface VIII had arbitrated over Gascony in 1298.[1]

Finally, so far as Edward III is concerned, it looks as if he was considerably influenced by the experience of his predecessors in handling the crisis in his relations with Philip VI. That he might well have been disposed to avail himself of this experience is suggested by the fact that his attitude to politics was closely akin to theirs, and especially to that of his grandfather, Edward I. But there are other and stronger reasons to clinch the point. Mr. Cuttino has shown how this experience was carefully gathered up, meticulously sorted and arranged for further use in the office of the Keeper of the Process. Here, in what was really a special secretariat for French affairs, the material of policy lay ready to

[1] Rothwell, *op. cit.*

hand, and there is plenty of evidence to show that constant and intelligent use was made of it by the capable men who served Edward III. Among them was Elias Joneston, whose tenure as Keeper stretched from 1306 to 1336, and who was, in many ways, the living embodiment of the great Edward's experience.[1] Again, the situation with which Edward III had to grapple from 1333 onwards was, in some crucial respects, remarkably like that which had confronted Edward I in the closing years of the thirteenth century. This was simply because the issues of Scotland and Gascony were firmly hooked together once more.[2] Later, when the peak of the crisis was reached, Edward I's experience was again relevant. Under the spur of necessity he had improvised a northern coalition against Philip IV through his connections in Holland and Brabant. Edward III and his helpers also rapidly constructed an alliance against Philip VI, but their work was far more elaborate and widely based, for they could build across the strong links Edward III already had with the Low Countries and the princes of the Rhineland through his father-in-law, William of Hainault.

There is thus something to be said against the accepted view that Edward III deliberately made the war because he desired to have done with ancient bickerings and old methods in his dealings with the French king. The crisis which led to the Hundred Years War was, in itself, only one of those recurring periods of acute tension which had marked Anglo-French relations since the collapse of the Angevin dominion under John. It bore a particularly close resemblance to the clash between Edward I and Philip IV at the close of the thirteenth century. In his handling of it Edward III relied heavily on his predecessors experience and on their well tested methods. The reason why the crisis which came to a head in 1337 had a different outcome from those which had preceded it lies elsewhere. It lies in the fact that Edward III, Philip VI and Benedict XII were not men of the stature of Edward I, Philip IV and Boniface VIII.

[1] Cuttino, *op. cit.*, passim. He also notes that when Philip's intentions towards Scotland were becoming more obvious, Edward III's counsellors instinctively looked back to his grandfather's time, for, as they saw it, he had known how to get himself out of tight corners with some agility (*ibid.*, p. 70).

[2] The first French agreement with the Scots dated from 1295, and what the Scots later called 'the auld alliance' had already become a tradition of French policy by the time of Philip VI.

THE ORIGINS OF THE COMMISSION SYSTEM IN THE WEST INDIA TRADE

The Alexander Prize Essay

By K. G. Davies, M.A.

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THE half-century which followed the capture of Jamaica in 1655 was characterized by the consolidation rather than by the expansion of the English interest in the West Indies.[1] In the political sphere this consolidation took several forms. The acquisition of Jamaica, by far the largest English West Indian colony, and the termination of proprietary rule in the Caribee Islands in 1663 brought the greater part of the English West Indian empire under the direct administration of the Crown.[2] As a corollary to this extension of Crown rule, the creation of effective institutions for the government of these and other colonies became a matter of urgent necessity. After a series of experiments in the decade following the Restoration, the constitution in 1672 of the Council of Trade and Plantations inaugurated 'a more thorough system of colonial control than had been established by any of its predecessors'.[3] The sum effect of these developments was that London became, in a way that it had never been before, the place where all the major decisions affecting the

[1] Barbados 'expanded' in the sense that she helped to people other colonies; many left in the 'sixties and 'seventies of the seventeenth century to settle Surinam, Jamaica and St. Lucia. But taking the West Indies as a whole, the movement was an increase and redistribution of population rather than a territoral expansion. See A. D. Chandler, 'The Expansion of Barbados', *Journal of the Barbados Museum and Historical Society*, xiii (1945–6), 106–36.

[2] J. A. Williamson, *The Caribee Islands under the Proprietary Patents*, chapter x.

[3] C. M. Andrews, *British Committees, Commissions and Councils of Trade and Plantations, 1622–1675*, p. 111.

destinies of the West Indies were taken. From London there issued not only Crown-appointed governors and a stream of Orders-in-Council, but also declarations of the King's pleasure on such minor questions as appointments to colonial judgeships and seats in colonial councils.[1] To London there flowed, besides acts of colonial legislatures for approval or rejection, a torrent of complaints and petitions for redress.

To such a process of centralization the West Indians could not be expected to remain indifferent. Their immediate reaction was to seek for some representation at the centre of business whereby they could obtain reliable, up-to-date information, and through which they could bring pressure to bear on those in whose power they found themselves. These objects were achieved by the formation of associations of West Indian planters resident in England together with London merchants with West Indian connections, and by the appointment of political agents nominated and paid by the several colonial legislatures. The first of these associations, the Committee for the Concern of Barbados, was established in 1671, and shortly afterwards the Jamaica Coffee-House in St. Michael's Alley became a recognized meeting-place for persons interested in that colony.[2] Such associations, whether formal record-keeping bodies like the Barbados Committee or informal like the Coffee-House, provided not only a medium for the exchange of views and co-ordination of private interests but also a repository of expert knowledge and opinion on which the government could and did draw. The political agents, on the other hand, were more directly representative of the interests of the colonies; their duties included the presentation and management of petitions, lobbying of all kinds and the transmission of information.[3]

The growth of absenteeism, especially amongst the planters of substance, helped to divert the interests of many away from the colonies to the wider stage which England afforded. The first generation of English settlers in the West Indies may have been genuine exiles seeking a fresh start and a clean break from home. But by the later seventeenth century a different type was in the

[1] For example, *Calendar of State Papers, Colonial, 1677–80*, nos. 387 and 889; Public Record Office, Treasury, (Expired Commissions) 70, 169, fo. 45r.

[2] L. M. Penson, *The Colonial Agents of the British West Indies*, pp. 181–3.

[3] *Ibid.*, chapters ii, iii, ix.

ascendant, and in Barbados at least had already established itself. To some of the second and third generation of planters the West Indies were no more than a point of departure; to others they offered a tolerable fortune followed by retirement to quiet estates in Kent; to others their West Indian estates were mere appendages to more valuable property in England.[1] Some West Indians, like John Blake of Barbados, were already in the 'seventies of the seventeenth century sending their children to be educated in England.[2] Many, like the Littletons, the Merricks and the Freres, retained family ties with England. Almost, it seems, as soon as the 'frontier phase' in a West Indian colony's history was ended and the estate put on a working footing, the planter and his family began to aspire to the pleasures of civilized life 'at home'.

This focusing of the political interests and social aspirations of the West Indies upon England has its economic counterpart in the post-Restoration period. It is with the concentration of the economic interests of the sugar colonies upon the London market and the machinery by which this concentration was effected that this paper is concerned.[3] Just as the last forty years of the seventeenth century witnessed the development of political agencies, so they saw also the foundations laid of the commission or 'factorage' system which in the eighteenth century was to become

[1] Sir Peter Colleton, Sir Edwin Stede and Christopher Jeaffreson are examples of these three types of West Indian.

[2] Blake family records, described in *Caribbeana*, ed. V. L. Oliver, i. 51–7.

[3] The principal authorities are the works of G. L. Beer; C. M. Andrews, *The Colonial Period in American History*, especially vols. ii and iv; V. T. Harlow, *A History of Barbados, 1625–1685*; C. S. S. Higham, *The Development of the Leeward Islands under the Restoration*; F. W. Pitman, *The Development of the British West Indies*; Richard Pares, *A West-India Fortune*; O. P. Starkey, *The Economic Geography of Barbados*; Noel Deerr, *A History of Sugar*; *Caribbeana*, ed. V. L. Oliver; *A Young Squire of the Seventeenth Century*, ed. J. C. Jeaffreson; *Autobiography of William Stout*, ed. J. Harland; Richard Ligon, *A True and Exact History of the Island of Barbadoes*; Dalby Thomas, *An Historical Account of the Rise and Growth of the West-India Collonies*; John Oldmixon, *The British Empire in America*; Edward Littleton, *The Groans of the Plantations*; Thomas Tryon, *Letters Domestick and Foreign to Several Persons of Quality*. The manuscript sources used in this paper are the Entry Books of Bills of Exchange of the Royal African Company, Public Record Office, Treasury 70, 269–77 and 282, and the Letter Books of the same Company, principally T. 70/1, 10, 12, 15–17, 20.

an outstanding characteristic of the West India trade.[1] In its heyday this commission system grew to be something more than a widely adopted method of marketing the most important commodity produced by the Old Empire: it became the means whereby credit, the very life-blood of the West Indies in the eighteenth century, was transmitted from the mother country. For this reason its origins and early development deserve a brief enquiry.

During the seventeenth century trade between England and the West Indies was carried on in at least four different ways. The first settlers had to rely on the fortuitous arrival of a ship bringing reinforcements, stores and provisions, for which they could barter their tobacco, indigo, cotton and other products. But as soon as a settlement had demonstrated its will to survive and its ability to pay, a more regular form of trade sprang up. In 1628, for example, Thomas Littleton, a London merchant, sent three ships to Nevis with provisions, munitions and clothing to the value of £5,000. These goods were consigned to Littleton's factor or agent, whose duty it was to sell them and make suitable returns.[2] This mode of trading was particularly apt for the early years of a new colony's existence. The merchant in London (or in many instances the Dutch merchant) supplied the capital which enabled the necessities of life and labour to be brought to the colonist.[3] In these early days the planter's main concern was to plant, to produce larger crops, to buy more food, more land and more labour. Individual holdings of land in Barbados and the Leeward Islands before the elevation of sugar to the status of main crop tended to be small;

[1] A brilliant picture of the working of a commission house in the later eighteenth century has been given by Professor Pares in *A West-India Fortune*. Unfortunately the Pinneys did not go into the business until 1783. The subject of the rise of the commission system was touched upon by Professor Penson, *The Colonial Agents of the British West Indies*, pp. 10 ff. Material for comparison is to be found in J. S. Bassett, 'The Relations between the Virginia Planter and the London Merchant', *Annual Report of the American Historical Association for 1901*, i. 553–75, and in Elizabeth Donnan, 'Eighteenth-Century English Merchants: Micajah Perry', *Journal of Economic and Business History*, iv (1931–2), 70.

[2] *Caribbeana*, ii. 2–7, for a description of a Chancery suit, Littleton *v.* Bullock.

[3] For the extent of Dutch trade, see G. L. Beer, *The Origins of the British Colonial System*, pp. 357–9; Brit. Mus., Add. MS. 11411, fos. 3v.–5v.; Dalby Thomas, *An Historical Account of the Rise and Growth of the West-India Collonies* (1690), pp. 36–7.

and planters to be men of little fortune. In such a trade, the merchant, English or Dutch, made the running, and could and no doubt did exploit the initiative which he held. But the small planter drew certain benefits from his subordinate position. By selling in the island, he could without any delay translate his crops into the commodities he needed; no calls were made on his small capital for customs, freight or insurance, though all three would be reflected in the value set upon his crop; and if the ship which carried the produce of his land was lost on the homeward voyage, not he but the merchant was the sufferer.

This method of trading begat in the islands a class of merchants or 'shop-keepers' who handled the goods of their principals, collected debts and made up return cargoes. Richard Ligon described how during his residence in Barbados from 1647 to 1650 an English merchant might accumulate the money to buy a plantation by trading in this way.[1] Ten years later Thomas Povey's letter-book shows us Edward Bradbourn acting as factor in Barbados for Povey and Martin Noell in London.[2] Although this method of trading began to be superseded soon after the Restoration it did not die out altogether; during the remainder of the seventeenth century and in the eighteenth, middlemen factors continued to ply their trade in the islands. Azariah Pinney, on his arrival in Nevis in 1686, set up as factor for his family and soon began to gather other commissions from England.[3] The yearly cargoes which William Stout, the Lancaster Quaker, sent to Barbados between 1699 and 1702 were consigned to factors resident in the island.[4] Alternatively, the roles might be reversed, the island merchant setting up in business on his own account and himself employing an agent in England to make consignments to him.[5] Unpopular as they were and the target of spiteful legislation which doubled the difficulties of their business, these island merchants and factors served a useful purpose in reducing the demands put upon the capital of the smaller planter.

But the future belonged neither to the speculative ship, nor to

[1] *A True and Exact History of the Island of Barbadoes* (1673), pp. 109–12.
[2] Brit. Mus., Add. MS. 11411, fos. 78v.–79v., Thomas Povey to Edward Bradbourn.
[3] *A West-India Fortune*, pp. 32–5.
[4] *Autobiography*, ed. J. Harland, pp. 54 ff.
[5] *A West-India Fortune*, p. 35.

the London merchant with his island factor, nor to the island merchant with his English factor. The future belonged to a trade in which the planter himself assumed responsibility for the marketing of his products, consigning them on his own account to an agent, at first in London and later in other towns, who for a consideration saw to their ultimate disposal. This system reached its full flowering in the eighteenth century, when it can be studied in the records of such firms as Pinney and Tobin, and Lascelles and Maxwell. But it was in full working order, though on a smaller scale, by the end of the third quarter of the seventeenth century. The great commission houses which later dominate the scene have their seventeenth-century counterparts in firms such as Bawden & Gardiner and John Eyles & Company, and in individuals such as Thomas Tryon, Anthony Wallinger and Nathaniel Bridges.

The duties performed by the London agent of a West Indian planter in the later seventeenth century were much the same as those undertaken in the eighteenth century. He received the goods off the ship, having previously made whatever insurance on them might be necessary; he obtained the certificate of discharge and paid the customs; he warehoused the goods; and either personally or through a broker he conducted the sale. From the gross proceeds he first deducted his own commission of two-and-a-half per cent., plus an additional one-half of one per cent. for brokerage if he had himself negotiated the sale. Further deductions were made in respect of charges which the agent had defrayed on behalf of his correspondent for freight, customs, and so on. The net proceeds were then placed to the credit of the planter and could be used either for the purchase of goods which he might order out from England (on which the agent collected a further two-and-a-half per cent.) or as a fund on which bills could be drawn for the payment of debts due in England or in the West Indies.[1] To the planter therefore his English factor stood at once as selling and buying agent and as banker.

[1] J. Oldmixon, *The British Empire in America* (1708), ii. 155. An account rendered by Edward Thornburgh to the Assembly of Barbados of the sale of 30 butts of sugar illustrates the type and scale of charges which an agent defrayed, P.R.O., Colonial Office, 31, 2, pp. 112–13. Three per cent. was the regular charge for commission and brokerage combined; see a report by John Eyles, Benjamin Skutt and John Bawden (all commission agents) on the accounts of the Barbados Four-and-a-half Per Cent. Duty in *Calendar of Treasury Books, 1679–80*, p. 513.

The bill of exchange, by means of which the planter was enabled to draw upon the funds he had accumulated in the hands of his agent, represented a credit transaction involving at least three parties, the drawer (in this case the planter), the drawee (his agent in London), and the payee (the planter's creditor). The principal evidence for the operation of commission agents in the West India trade in the later seventeenth century derives from the records neither of a planter nor of an agent, but of a payee, the largest single business engaged in that trade, the Royal African Company.[1] The nature of the trade pursued by this company is well known. Goods of English, European or East Indian manufacture sent out from London were bartered on the coast of West Africa for negro slaves; these were shipped to the West Indies where they were sold sometimes to contractors but more often directly to the planters. Payment for the Company's slaves could be made in one of three ways. First, the Company accepted coin, for the most part the Spanish pieces-of-eight which circulated in Barbados and Jamaica. Secondly, payment might be in kind, usually sugar but sometimes indigo, cotton or other products. This method was almost universally practised in the Leeward Islands where sugar was current, and it was by no means rare in the other colonies. The third mode of payment was by the planter's bill of exchange drawn on his London agent or on some other person in England and made payable to the Company in London. It is these bills, entered in the Company's books, which with scattered references from other sources provide the material for studying the commission system in the early stages of its development. For the years 1672–94 record is preserved of about fifteen hundred bills, of a gross value of nearly £350,000. The yearly average for the whole period is £16,000, and for the years of the Company's greatest activity, 1676–87, it is over £21,000.[2]

Not all these fifteen hundred bills are evidence of the operation of a commission system. Nearly a half of the two hundred persons on whom they were drawn were concerned in only one bill. The acceptance and payment of a single bill does not make the acceptor

[1] P.R.O., T. 70/269–77 and 282. The entry books for the years 1700–27 are of little value.

[2] These are gross figures, including bills drawn not by planters but by syndicates of contractors who bought negroes from the Company. They include also the very small (until 1690) number of bills which were protested.

a commission agent; nor need it imply the existence of any well-founded commercial relationship between the parties concerned. It may denote merely the discharge of an obligation of a non-commercial nature; and in many instances in which a single bill was drawn the parties appear to have had some family connection.[1] If we may take five bills spread over a period of at least two years as evidence of a regular correspondence between planter and agent, nearly sixty such attachments can be discerned in these years. The degree of permanence which they enjoyed varied widely. Generally the practice seems to have been for the planter to employ only one agent at a time and to continue with him over a number of years. The Bulkeleys, the Farmers, the Silvesters and the Hothersalls, all planters of Barbados, retained their agents for thirteen years or longer, while John Gibbes was associated with the firm of Eyles & Co. for nineteen years. But that the planter retained some freedom of action is clear. John Davies, for example, who had a two-hundred-acre estate in Barbados, employed Robert Chaplin as his factor from 1672 to 1682. But while continuing to draw on Chaplin, he began in 1676 to draw also on Eyles & Co. In 1682 he gave up both agents and began to draw on a third, John Eston. Similarly Humphrey Waterman, after two years with Edward Thornburgh, transferred his commission to Christopher Fowler, while John Pierce, whose thousand-acre estate was one of the largest in Barbados, employed simultaneously Robert Chaplin and the firm of Bawden & Co. as his factors. At the end of the seventeenth century, therefore, it was still possible for a planter to change his correspondent. Thus the agents of the African Company in Barbados reported in 1693 that several of the planters who employed John Gardiner 'have such regrett at his unkind useage that they Change theire factors'.[2] In the eighteenth century a planter might have no alternative but to confine his business to the agent to whom he owed money.[3] But in the seventeenth century these bonds of debt had not been firmly or finally riveted. Chronic indebtedness was already a West Indian characteristic,[4] but the principal creditors do not as yet seem to

[1] Thus Justus Birkin drew on James Birkin, Katherine Bentley on Sir Martin Bentley, Emanuel Hulson on Thomas Hulson, etc.

[2] P.R.O., T. 70/17, fo. 61r. [3] *A West-India Fortune*, pp. 172, 254–8.

[4] For example, *A Young Squire of the Seventeenth Century*, ed. J. C. Jeaffreson, ii. 50.

have been the London agents. The largest single creditor in the West Indian colonies in the last quarter of the seventeenth century was the Royal African Company itself. The standing debt owing to it never fell below £100,000 and frequently rose above £150,000.[1] Credit for the purchase of labour, the commodity of most vital importance to the planter, was thus being supplied from outside the commission mechanism. The replacement in the early eighteenth century of the African Company by private slave-traders, less able and less disposed to sell on trust, deprived the planters of a source of credit which they could ill afford to lose, and probably threw a heavier burden upon the commission agents.[2]

Without the records of a seventeenth-century commission agent, it is difficult to reconstruct the precise relationship which existed between his kind and the West Indian planters. It is possible that even at this date such agents as John Bawden, John Eyles and John Gardiner were making advances to their correspondents on the security of their West Indian estates. But no evidence has so far come to light to confirm such an hypothesis. What is fairly certain is that agents were not disposed to make advances on the bills drawn upon them. Ideally the planter should have kept a sufficient reserve in the hands of his agent to meet all contingencies. But it was general practice to draw on the bill of lading, that is to say, to send off the bills of exchange at the same time as the goods which were intended to meet them.[3] In other words, planters were writing cheques and then hastening to the bank to pay in sufficient to cover them. If the goods and the bill came to hand together, well and good. But if the ship which

[1] In 1681 the debt stood at £120,000; in 1685 at £136,000; in 1690 at £170,000; in 1694 at £128,000; in 1696 at £140,000; details from annual statements of the assets of the Company in P.R.O. T. 70/101. The floating debt must at times have made the total outstanding very much larger.

[2] In 1700 the Governor of Jamaica (a former agent of the Company and possibly a prejudiced witness) wrote to the Council of Trade and Plantations: 'Another fatal thing to the settling and increasing these Plantations is the merchants of London have never left soliciting against the Royal Company under pretence they would supply negroes more plentiful and cheap, till they have gotten them out and themselves in, and whereas the Royal Company usually supplied negroes at £22 and £24 per head and gave 6, 8 and 12 months' credit, now the Merchants sell for £34 per head and give no credit at all' (*Cal. S. P. Col.*, 1700, p. 19).

[3] J. Oldmixon, *The British Empire in America* (1708), ii. 167.

carried the planter's sugars was lost, his bill could expect no mercy; it was promptly protested and returned to drawer.[1] To some extent this contingency could be provided for by long-dated bills, but in fact these were uncommon. Thirty or forty days after sight were the periods at which the majority of West India bills became payable in the 'seventies of the seventeenth century, though somewhat longer-dated bills became more common in later years.[2] Attempts by the planters to anticipate the proceeds of their consignments were met by firm protests from the agents. In the early years of the war which began in 1689, the West India trade was severely dislocated by embargoes, shipping losses and a scarcity of freight. Two bills drawn at this time by Thomas Walrond of Barbados were entered in the Company's books with a note: 'Mr. Walrond does not doubt but thro' the blessing of God to have Sugars timely for the full discharge of these bills of Exchange If Fraight may then be had.'[3] Freight was apparently not to be had, and the bills were protested. In normal times very few bills had to be returned to drawer. Between 1672 and 1687 Bawden & Co. protested only six, Eyles & Co. seven, Hinchman two and Tryon three. But with the outbreak of war the number rose steeply. Of eighteen bills drawn on John Gardiner between 1689 and 1694, all but four were protested[4]; Eyles & Co. protested nine of the bills drawn on them in the early years of the war, and Henry Hale ten. Of twenty-eight bills which the African Company received on 7 November 1692, only seven were paid.

[1] J. Oldmixon, *The British Empire in America* (1708), ii, 167. Three copies of a bill were normally sent by different ships, so that if one miscarried the others would arrive.

[2] Of the first 112 bills received by the Company between 1672 and 1675, 61 were payable at 30 or 40 days' sight, and 40 at 50 or 60 days' sight. Of 55 bills drawn in 1688, 26 were payable not at so many days' sight but on a certain date written into the bill, generally from six to twelve months after the bill was drawn. An interesting and (amongst these bills) rare form is a bill in which the date of payment was made contingent upon some event, for example, 'Three months after the safe arrival of the *George*, Samuel Jones, Commander, in the Port of London.'

[3] P.R.O., T. 70/276, under date 7 November 1692.

[4] This action made Gardiner unpopular in Barbados and may have prejudiced his candidature for the political agency of the island. His conduct, the African Company's agents reported, 'extreamly disobligeth his freinds by exposeing Theire reputation and for Bringing it into contempt here to there greate Damage' (P.R.O., T. 70/17, fo. 61r.).

This manifestation of the factors' unwillingness to make advances on bills came at a time when the planters were in particular need of credit; for sugar prices were booming and maximum output was called for.[1] It is therefore reasonable to suppose that agents were not yet convinced either of the necessity or of the profit to themselves of making advances to planters on their bills. Only further inquiry can show if they were supplying extensive credit in any other form.

The intimate social relationship which was later to subsist between planter and factor [2] does not appear to have fully developed in the seventeenth century. John Blake, for example, employed a distant kinsman to oversee the education of his children in England, whereas a century later he would probably have commended them to Nathaniel Bridges, his factor.[3] On the other hand, there are signs that already the relationship was growing into something more than a business convenience. When John Hothersall of Barbados made his will in 1694, he appointed his good friends Sir John and Francis Eyles guardians of his children and besought them to advise his widow in her investments.[4] Eyles & Co. had been factors for the Hothersalls for at least fourteen years, and by the will were made receivers of the products of the plantation during the minority of the children.

The task of inquiring into the origins of this commission system is somewhat simplified by the knowledge that as yet it did not extend to the trade of every West Indian colony. We have already noticed the persistence into the eighteenth century of the earlier forms of trading controlled either by London or by island merchants. Of the fifteen hundred bills which the African Company received between 1672 and 1694, only fifty-eight originated in Jamaica and twenty-five in the Leeward Islands; the remainder were drawn in Barbados. This is not to suggest that the commission system was unknown outside the trade of Barbados; Christopher Jeaffreson has left evidence of its existence in the

[1] The average London wholesale price of Barbados sugar in December 1688 was 23s. 6d. a 100 lbs.; in December 1689 it was 33s. 6d.; in November 1690, 34s.; in December 1693, 38s.; in December 1695, 55s.; details from an index of sugar prices compiled from the records of the African Company's sales.

[2] *A West-India Fortune*; pp. 186–7.

[3] *Caribbeana*, ed. V. L. Oliver, i. 51–7.

[4] P.R.O., Chancery Proceedings, C. 5/238/47.

trade of the island of St. Christopher's.[1] But the extensive use of the bill of exchange in Barbados and its rarity elsewhere imply that it was to the conditions which prevailed in Barbados that the system was thought to be particularly apt.

Barbados at the Restoration was unique amongst the English colonies, and not only on account of her riches. As the first island to cultivate sugar as a commercial crop she had a start of several years over her rivals, and throughout the seventeenth century she continued one or more jumps ahead of them. The concomitants of sugar planting, a large slave-population, intensive cultivation of the soil, and the large estate, all manifested themselves first in Barbados. While Jamaica continued a 'frontier colony' until well into the eighteenth century,[2] Barbados was already in the 'fifties of the seventeenth century so fully settled that she could afford, indeed was constrained, to get rid of her surplus population to the newer colonies.[3] By 1676 it could be said that 'there is not a foot of land in Barbados that is not employed even to the seaside', and, despite the falling price of sugar, land values were high.[4] The rapid growth of the slave population in the 'fifties and 'sixties is itself evidence of the heavy capitalization and intensive cultivation of the soil.[5] With the possible exception of the little island of Nevis, Barbados alone in the last quarter of the seventeenth century had reached a point beyond which further economic progress could take place only at a much reduced rate.

Although the average size of a plantation was certainly under a hundred acres,[6] Barbados in the second half of the seventeenth

[1] *A Young Squire of the Seventeenth Century*, ii. 213–14.

[2] F. W. Pitman, 'The Settlement and Financing of British West India Plantations in the Eighteenth Century', *Essays in Colonial History presented to C. M. Andrews.*

[3] V. T. Harlow, *A History of Barbados*, p. 203; A. D. Chandler, 'The Expansion of Barbados', *Journal of the Barbados Museum and Historical Society*, xiii (1946), 106.

[4] *Cal. S.P. Col., 1675–6*, p. 421.

[5] In 1680 Barbados had 37,000 slaves; *Cal. S.P. Col., 1677–80*, no. 1336, xxiv. In 1748 she had 47,000, an increase of only 27 per cent.; F. W. Pitman, *The Development of the British West Indies*, appendix i. Jamaica, on the other hand, had 9,000 in 1673 and 112,000 in 1746, an increase of 1,150 per cent. (*ibid.*).

[6] 80 acres in 1712 (Pitman in *Essays in Colonial History presented to C. M. Andrews*, p. 260).

century was already a land of comparatively large estates.[1] In 1673 she could boast of no less than seventy-four 'eminent planters' with estates of from two hundred to a thousand acres,[2] many of whom were aristocrats by birth as well as by inclination. 'Whoever will look over the Map of Barbadoes', wrote John Oldmixon, 'will find the Country is not possessed by such a set of Men as inhabit the other Plantations', but by 'families of the most ancient and honourable in England'.[3] Such were the Draxes, the Stedes, the Codringtons, the Littletons, the Willoughbys and the Fortescues. Though they might be debtors, they were still men of substance, men whose promissory bills might be expected to command acceptance, men whose estates were such that they did not feel the same urgency as their lesser brethren to turn their crops immediately to account, men, in short, who could forbear returns long enough to send their products to the best accessible market, however distant it might be. The commission system was in origin the method of disposal for the sugar produced by the large, intensively cultivated, highly capitalized estate; and since it was in Barbados that such estates were mainly to be found in the seventeenth century, it was in the trade of that colony that the system made its first appearance. In the eighteenth century, as Jamaica began to be more intensively cultivated and families like the Pinneys built up large estates in other islands, the system spread into the entire West Indian trade.

The evidence for this statement lies in the bills of exchange already mentioned. Of the seventy-four 'eminent planters' of Barbados, all but fourteen appear in the records as drawing bills in favour of the Company, and the majority of them did so regularly and may therefore be assumed to have employed London agents. Of one hundred and twenty-two bills drawn between 1672 and 1680 on the three leading agents of the time, John Bawden, John Eyles and Edward Thornburgh, eighty-two were drawn by 'eminent planters',[4] and ten others by men who, though not appearing in the list of 'eminent planters', are found a few years later holding offices in the island which tended to be the

[1] Harlow, *op. cit.*, pp. 306–7.

[2] *Cal. S.P. Col., 1669–74*, no. 1101, ii.

[3] J. Oldmixon, *The British Empire in America* (1708), ii. 111.

[4] If owners employed managers or attorneys with power to draw bills, the number emanating from the large estates might well be greater than appears.

preserves of the greater landowners.[1] From the point of view of the London agent it is understandable that this should have been so. Only the larger fish could have been really worth the catching. The labour of correspondence and accounting could scarcely be recompensed if consignments of sugar were not to be large enough for the commission thereon to amount to a worthwhile sum.

The growth of the large estate and the emergence of a class of substantial planters were the prerequisites of the commission system. But other factors help to explain its rise, in particular the concentration of the economic interests of the West Indies upon England to which reference has already been made. In the main this concentration was arbitrary; the planters did not want it and never ceased in the seventeenth century to campaign against it. The imperial economic programme which took shape between 1650 and 1665 was not intended to benefit them. By the Navigation Act of 1660 and the Staple Act of 1663 their interests were completely subordinated to those of the mother country. They lost above all the right to buy from and sell to the Dutch traders whose ready acceptance of 'moderate gains by Trade' had done so much to set the English colonies on their feet. The planters were left at the mercy of the English and island merchants, and as early as 1655 they were resenting the position in which they found themselves.[2] 'The Merchants,' they complained in 1661, 'having us in their power that wee can send our sugars noe where else, they give us what they please and soe having the markett in themselves to send it for other countryes, they sell it for what they list, and make us simple planters only the propertie of their gaine, and sell the poor for bread and the rich for shoes.'[3] In such straits any planter who could afford to do so must have been encouraged to reach out to a wider and freer market than that provided by his own island. Since Europe was closed to him, he could look only to England. In London he would find at least a measure of com-

[1] Brit. Mus., Sloane MS., 2441, fos. 21r.–22r.

[2] Butler to Cromwell, 'The islanders heer much desire commerce with strangers, our English merchants traffiquing to those parts being generally great extortioners', quoted in Harlow, *op. cit.*, p. 88.

[3] P.R.O., C.O. 1/15, no. 70. Further evidence of the notorious animosity between planters and merchants is to be found in C.O. 1/23, no. 20, and in Oldmixon, *op. cit.*, ii. 155.

petition for his sugars amongst English grocers, refiners, distillers and re-exporters. Thus the invasion of the London market by the West Indian planters may be seen partly as a reply to the prohibition of free-trade and the alleged excesses of the local merchants and factors.[1]

Fundamentally there could be only one motive for a planter to switch his products from the island market to London. Richard Ligon told the Barbados planter of the early 'fifties that he could expect 3d. a lb. for muscovado sugar sold in the island. 'But if', he continued, 'you run the Hazards of the Sea, as all Marchants doe and bring it for England, it will sell in London for 12d. a lb.'[2] Already, therefore, an incentive existed for the planter to forbear his returns in the expectation of a greater profit. Later in the century it is less easy to assess the relative margins of profit to be gained from the two alternative methods of trade. They certainly may not be regarded as constant; a heavy sugar crop could mean high freight charges as shippers competed for cargo-space, but low wholesale prices in London. On such occasions the planter's profit might disappear altogether.[3] But the fact that in the later seventeenth century planters were making consignments to England on their own accounts of itself suggests that generally this method of disposal through London agents was thought to be the more profitable.

At the time when Ligon wrote, sugar was a crop of such golden possibilities that the risks and trouble of making consignments to London may not have been compensated by the extra gain accruing. But the sellers' market which Barbados enjoyed in the 'forties and early 'fifties disappeared under the impact of an increase in world production of sugar with which consumption did not keep pace. From the mid-'fifties almost until the outbreak of war in 1689 prices were falling; in June 1686 good Barbados sugar was selling for no more than 15s. 9d. a 100 lbs. in the London wholesale market, a price such as would obtain only two or three times in the next two hundred years.[4] These falling prices magnified the

[1] Compare L. M. Penson, *The Colonial Agents of the British West Indies*, pp. 10–11.

[2] *A True and Exact History of the Island of Barbadoes* (1673), pp. 95–6.

[3] Limitation of production was preached by Thomas Tryon, *Letters, Domestick and Foreign to Several Persons of Quality*, (1700), nos. xxxii and xxxiii.

[4] This quotation and the evidence for falling prices derive from an index

difference in the margin of profit accruing to the planter by the alternative methods of marketing his sugar. When profits were being cut to the bone and possibly in some years annihilated, the chance of an extra shilling or even of a few pence on 100 lbs. of sugar could not be ignored by those planters who could afford the delay involved in dispatching their goods to London. Like the Navigation Laws, falling prices bore equally on all the sugar islands; yet only in the trade of Barbados did the commission system play an important part in the seventeenth century. As yet it was only in Barbados that there was to be found a sufficiency of planters of substance wedded to a one-crop method of agriculture.[1] For the most part the products of Jamaica continued to be sold in the old way and the planters of that island remained in subjection to local merchants and factors long after those of Barbados had emancipated themselves.[2] The Navigation Laws and the falling price of sugar, which promoted the commission system in Barbados, produced different effects in the other English islands because those colonies were at different levels of economic development and specialization. As Jamaica and Antigua came more into line with Barbados in the eighteenth century, the commission system became practically universal.

It remains to consider briefly the London agents themselves, the first generation of new-style West Indian merchants, who operated the system. It has already been pointed out that the fifteen hundred bills of exchange which are the principal evidence for this paper were drawn on more than two hundred people and that only a small number of these men were acting as commission agents. In fact, a group of about twenty engrossed nearly

of wholesale sugar prices for the years 1674 to 1695 compiled from the records of sales of sugar by the African Company. Cf. N. Deerr, *A History of Sugar*, ii. 530–1.

[1] Jamaica, presumably because sugar slumped before she was too deeply committed to it, remained an island of 'mixed planting' in the eighteenth century (F. W. Pitman, *Essays in Colonial History presented to C. M. Andrews*, pp. 263–4).

[2] An instance of what this subjection could mean is to be found in the records of the African Company. In 1682 the Company's agents entered into an agreement with other factors in Jamaica to depress the price of sugar by holding up their purchases. So strong was the combination that the agents believed nothing could mar its success but the insistence of principals in England upon early returns (P.R.O., T. 70/10, fo. 28r., T. 70/15, fos. 30r., 31r.).

two-thirds of the business.[1] The connection between these leading commission agents and the West Indian political agencies is notable; Edward Thornburgh, the first agent appointed by Barbados, Thomas Hinchman, chosen for the same office in 1671, John Gardiner, nominated for the position in 1694, Bartholomew Gracedieu, agent for Jamaica from 1693 to 1704, Robert Chaplin, personal agent to the governors of Barbados, all these in their private capacities were commission agents to West Indian planters.[2]

These new West Indian merchants were of diverse origins. Some like John Bawden were absentee planters whose commission business may have grown out of the practice of receiving the products of their own and their friends' estates for sale in London.[3] Some like Thomas Tryon knew the colonies from experience but had no territorial interest in the island whose planters they served.[4] Others like John and Francis Eyles had no apparent hereditary or personal connections with the plantations or their trade.[5] Few as yet were specialists. Bawden for instance had trading interests in Holland and the Canaries, dabbled in the slave-trade and was part-owner of a number of ships plying for hire.[6] His West Indian affairs, however, were his main concern, and his usual designation was that of West Indian merchant. His commission business certainly prospered. In 1682 he was able to take John Gardiner into

[1] The names of the most active agents with the number of bills drawn on them in favour of the African Company are: Paul Allestree (53 bills), Sir John Bawden, trading in his own name and as Bawden & Co. (136), Robert Chaplin (26), Thomas Clarke (47), Sir John Eyles, in his own name and as Eyles & Co. (126), Christopher Fowler (39), Henry Hale (24), Thomas Hart (24), John Harwood (46), Thomas Hinchman (39), John Hill (20), Thomas Robson (23), John Sadler (30), Benjamin Skutt (22), Edward Thornburgh (37), Richard Tilden (37), Thomas Tryon (40), Anthony Wallinger (39) and Richard Worsam (21).

[2] L. M. Penson, *The Colonial Agents of the British West Indies*, pp. 250–1; *Cal. S.P. Col., 1677–80*, nos. 197 and 413; *Cal. S.P. Col., 1681–5*, no. 274.

[3] Compare Christopher Jeaffreson, who marketed his own sugars but refused the commissions of his friends (*A Young Squire of the Seventeenth Century*, ii. 213–14).

[4] *Some Memoirs of the Life of Mr. Thomas Tryon* (1705), pp. 40–1. Tryon spent five years in Barbados making hats.

[5] The Eyles were a Wiltshire family; see below.

[6] P.R.O., Chancery Proceedings, C.5/455/40 and C.5/97/4; T. 70/79–82 for hiring of ships belonging to Bawden; *Cal. S.P. Col., 1681–5*, no. 1106.

partnership, and these two, according to Oldmixon, 'had then the largest Commissions from Barbadoes of any Merchants in England, and perhaps the largest that ever were lodg'd in one House in the West-India Trade', a verdict which coincides exactly with the evidence of the bills of exchange.[1]

Bawden's greatest competitors were Eyles & Co. With the two partners in this firm is associated one of the great mercantile dynasties of eighteenth-century London. The eldest daughter of John Eyles, the senior partner, married a nephew of Robert Stiles, the 'millionaire' merchant of Amsterdam, while two other daughters married into the gentry. The two sons of Francis Eyles, the junior partner, John and Joseph, are too well known in eighteenth-century political and business history to need any comment. The founder of the firm, John Eyles, son of a Devizes mercer, applied himself to the West Indian commission business at least as early as 1674. From the African Company's records we can see that at different times more then thirty people drew bills on him from Barbados. Like Bawden's, his agency was large enough to warrant a partner, and the volume of business which the firm handled was only a little less than that of Bawden & Gardiner. That his career was successful and that he died a wealthy man there can be no doubt. Member for Devizes in the Exclusion Parliament, under James II he became successively knight, alderman of the City of London and Lord Mayor. How much of the property which he left at his death, and how much of the £29,000 which he lent to the Government in 1689, represented the profits of his commission business it is impossible to say.[2] One fact, however, does emerge clearly: the leading commission agents of the seventeenth century were men of substance and influence who can stand comparison with the great houses of fifty or a hundred years later.

One final piece of evidence of the growth of the commission system remains, the curious project sponsored by Dalby Thomas

[1] J. Oldmixon, *The British Empire in America*, ii. 47–8. Bawden was knighted in 1687 and in the same year became an alderman of the City of London.

[2] For the Eyles family, see *Wiltshire Notes and Queries*, i. 213, 265, 301, 366–7, 390–1; v. 431; vi. 371; vii. 444; viii. 145–51; P.R.O., Chancery Proceedings, C.8/242/138, C.7/405/40, C.7/530/76; Will of John Eyles, P.C.C. 109 Degg; *Calendar of Treasury Books*, *1689–92*, Part v, 1972, 1974, 1983, 1984.

in 1687 for a West India Company. The objects of this scheme were two-fold, first to make loans to the colonies, and second, in the words which the projector addressed to the planters:

> to have had all your Goods that came to England brought to one Body of Men, which we call'd a Common Factory, and they constantly to be chosen by you in your Assemblies, and they to have been Accountable to every Consignor for the Nett proceed of every parcell of Goods Sold.[1]

The project failed, killed (so it was said and so it might be expected) by those who stood to lose most by it, the commission agents led by Bawden and Gardiner.[2] The significance of this storm-in-a-teacup could easily be exaggerated; it was never anything more than a project. But it does show that the commission business had made such progress that a projector could contemplate erecting it into an organized system; and the failure of the scheme itself testifies to the strength of the established agents. The foundations of the system which, it is hardly too much to say, was to keep the English West Indies in being during the eighteenth century had been well and truly laid.

[1] Dalby Thomas, *An Historical Account of the Rise and Growth of the West India Collonies* (1690), Dedication and pp. 48–9.

[2] Oldmixon, *op. cit.*, ii. 47–8.

THE STATE AND LANDED INTERESTS IN THIRTEENTH CENTURY FRANCE AND ENGLAND

By Edward Miller, M.A.

READ 13 OCTOBER 1951

I

BEFORE coming to the substance of this paper, I feel that I must define its purpose somewhat more closely than I have done in the title which I have given to it. A study of the state and landed interests, of course, could embrace most of the domestic and much of the external histories of France and England in the thirteenth century. I shall be concerned with much less than that—with a problem which nevertheless seems to me to be of the first importance in any study of the social and economic policies (if that phrase be not too anachronistic) of medieval governments. I mean the break-up and alienation of feudal tenements in the thirteenth century, some of the causes and consequences thereof, and some of the attempts made to deal with the difficulties thereby occasioned. This still remains a large subject, and at best this paper is an attempt at synthesis, even of *vulgarisation*, which rests, in the main, upon the work of others. In particular, I have drawn heavily upon Professor Plucknett's study of the legislation of Edward I, and I was encouraged to venture upon some comparisons with France because he has also shown, I feel, that such comparisons may not be without value.

Before coming to my subject proper, however, I should like to say a word about the changes which were going on in the social order on the eve of, and during, the thirteenth century. A rapid transformation was taking place in the economic organization of rural society: the contraction of demesnes, 'the prodigious attenuation of agricultural services',[1] the development of the landlord

[1] M. Bloch, *Les Caractères originaux de l'histoire rurale française*, p. 98.

into a rentier drawing his income mainly in the form of cash renders from the peasantry.[1] Such a generalized picture, of course, requires every sort of qualification. In France, these tendencies may have gone far by the time of Philip Augustus; but in England they had made less progress in the twelfth century, though Professor Postan has shown that they were not absent.[2] In both countries, furthermore, there was much variation between different districts and, in all probability, between different types of estate.[3] So far as these changes had gone, however, they had important consequences. The capacity of custom in medieval times 'to transform precedents into rights'[4] tended to perpetuate the seignorial concessions of the twelfth century. The semi-proprietary rights of many of the peasants were consolidated, and twelfth century contracts between them and their lords became hard to alter. In consequence, an element of growing importance in seignorial incomes was stabilized; and this was a serious matter in the thirteenth century when rising prices were reducing its real value. Doubtless attempts were made to check this tendency for real incomes to fall; and efforts in that direction may partly explain the 'manorial reaction'[5] in thirteenth century England, the development of new and more economic types of rent,[6] and the systematic exploitation of the incidental profits of lordship (tallages, mainmortes, wardships, judicial profits, and so on). Nevertheless, the tendency for real incomes to fall seems to have persisted, and was probably one cause of the beginnings of a 'crise nobiliaire', of which the signs are clearest in France but not entirely absent in England. There were, of course, other reasons for this crisis: an aristocratic way of life which made prodigality a virtue, wars and crusades and pious gifts, and the partition of

[1] M. Bloch, *Les Caractères originaux de l'histoire rurale française*, pp. 95 sq.

[2] 'The chronology of labour services', *Trans. Roy. Hist. Soc.*, 4th ser., xx (1937).

[3] For England see E. A. Kosminsky, 'Services and money rents in the thirteenth century', *Econ. Hist. Rev.*, 1st ser., v (1935).

[4] Bloch, *op. cit.*, pp. 73–4, and cf. p. 101 for champarts in which 'anciennement personne n'y avait droit d'héritage' but wherein such rights were quickly acquired.

[5] I use this phrase in the sense used by Prof. Postan, *art. cit.*, p. 187.

[6] E.g. the spread of leases for term of years and, in England at least, of tenancies at will: F. L. Ganshof in *Cambridge Economic Hist.*, i. 305 sqq., and E. Miller, *The abbey and bishopric of Ely*, pp. 109–11.

inheritances.[1] But the economic difficulties of lords helped to bring fiefs into the market in the thirteenth century, and multiplied concessions to the peasantry in return for cash down. The nobility, or at least some sections of it, were driven progressively further along a spendthrift's path.[2]

To these changes in the social order must be added others of a political nature. The decline of the feudal army, the inroads of royal courts and royal officials into the administrative immunities of great lords, were part cause, part symptom of the disintegration of feudal communities, also attested by the multiplication of the homages into which tenants entered. This had already gone very far when, in 1224, the lord of Noyers became the man of Theobald of Champagne for certain lands. He saved the fealty due to those other lords into whose homage he had entered previously; and of these there were no less than nine.[3] As the personal bond of vassalage was in this way drained of its meaning, only those territorial dispositions, which had been in origin merely a condition for the performance of vassalic duties, were left behind. Consequently, the right of the tenant in the land tended to assume a more unconditional character; tenant-right made progress amongst the feudal tenants as well as amongst the peasantry. This, combined with the economic circumstances of the thirteenth century, stimulated a traffic in feudal tenements which it was difficult for lords to control. Thus lords were faced increasingly, not only with a crisis of revenues, but also with a crisis of control.

These, then, were some of the problems which faced landowners in the thirteenth century. The rulers of the nations could hardly ignore them; for they, with their subjects (in Professor Powicke's phrase), 'lived in a social system of land-management, wardship and marriage, according to rules . . . which they observed . . . like serious children playing an intricate parlour

[1] R. Boutruche, 'Aux origines d'une crise nobiliaire', *Annales d'histoire sociale*, i (1939), 161–2, and in *IX^e congrés international des sciences historiques, Rapports*, p. 429; A. Luchaire in E. Lavisse *Histoire de France*, iii (i), 368. For heavy reliefs as a contributory cause of 'l'affaiblissement financier' of the Poitevin nobility, see E. Lyon, 'Comment fut elaborée l'ordonnance sur les rachats en Poitou', *Bibl. de l'Ecole des Chartes*, lxxxviii (1927), 88.

[2] Bloch, *op. cit.*, pp. 117 sqq.; R. Fawtier, *Hist. du moyen âge* (Glotz series), vi. 8–9.

[3] E. Teulet, *Layettes du Trésor des Chartes*, ii, no. 1640.

game'.[1] The seriousness of the game, even for kings, needs little explanation. Despite the fertility of Angevin England in new fiscal devices, the exploitation of the royal demesne remained an important activity of the revenue departments[2]; and Edward I can still be found acquiring lands for the crown 'as a landowner with capital to spare rather than as a King'.[3] Of course, these private preoccupations easily acquired a political character; indeed, the progress of the French monarchy can almost be measured in terms of the extension of the royal demesne, and it was his achievements in this direction which, according to a contemporary, won for Philip II the title of Augustus.[4] Furthermore, some part of the authority of thirteenth century monarchs was derived, in the last resort, from the superiority over the territorial order which feudalism, in fact or in theory, had vested in the monarchy. The exploitation of that superiority remained an essential part of the art of government, for so many rights were attached to land that the devolution of property still determined the distribution of much political power. At the same time the kingship carried obligations as well as authority. It was a *ministerium ad dispensationem reipublicae et utilitate ecclesiarum*,[5] an office burdened with the duty of safeguarding the rights of subjects and making justice prevail. In this connection again the monarchy was brought face to face with the problems of landowners; it had to seek to remedy their grievances. This task was the work of the king as judge and legislator; and perhaps most of all of the king as a judge. Statutes and ordinances were becoming commoner; but it was still in the courts that the most continuous effort was made to adjust customs to changing facts.

II

Amongst the many influences destroying the integrity of fiefs, I should like to say something first of family laws and customs. These became forces of increasing importance as feudal tenants acquired a more proprietary right in their holdings. Superficially,

[1] *Henry III and the Lord Edward*, ii. 711–12.

[2] See R. S. Hoyt, *The Royal Demesne in English Constitutional History, 1066–1272*.

[3] Powicke, *op. cit.*, p. 704.

[4] Luchaire, *op. cit.*, iii (i), 203.

[5] J. Declareuil, *Histoire générale du droit français*, p. 183.

perhaps, they are relatively unimportant in England. The partition of inheritances here was confined to the peasantry of certain peripheral areas of the country.[1] The following of such a custom, indeed, according to an early fourteenth century lawyer, put a man 'clean outside the common law'.[2] Amongst military tenants the custom of male primogeniture was general; and it was probably pushed down the social scale as socage tenements were burdened with scutage and to that extent assimilated to military tenements.[3] Nevertheless, as Professor Plucknett says, 'the system of male primogeniture is quite unworkable under the normal conditions of family life',[4] and it was much modified in practice by the almost inescapable duty of fathers to make some sort of provision for their daughters and younger sons. Such provision might take the form from the beginning of an outright conveyance of some part of the family estate; or, more commonly perhaps, of a conditional gift which did not give the donees full freedom of disposition over the land so granted for three or four generations. In the interval, failure of heirs (often of a specific class prescribed in the deed of gift) would involve the reversion of the estate to the donor or his heirs. But daughters and younger sons seem to have been impatient of these restrictions designed to maintain the integrity of patrimonies; and the common law courts apparently showed some sympathy for their endeavours to turn these imperfect gifts at the earliest possible moment into holdings over which they had free disposition.[5] Opposition to these breaches of the dynastic principle was perhaps but natural in the heads of families, and in lords desirous of keeping fiefs intact. Doubtless, these feelings provoked the enactment of the statute *De Donis* in 1285. That statute, however, made a sorry mess of things. It is unintelligible as it stands, probably because it was

[1] For the extent of this custom, see F. Pollock and F. W. Maitland, *History of English Law*, ii. 207; G. C. Homans, *English Villagers in the Thirteenth Century*, pp. 109 sqq. and 'Partible Inheritance in Villein Holdings', *Econ. Hist. Rev.*, 1st ser., viii (1937), 48–56.

[2] *Year Books, 2–3 Edward II* (ed. F. W. Maitland, Selden Soc.), pp. 95–7.

[3] Pollock and Maitland, *op. cit.*, i. 268–70. For this and what follows, see T. F. T. Plucknett, *The Legislation of Edward I*, pp. 110 sq.

[4] Cf. the remarks of Boutruche in *Ann. d'hist. sociale*, i (1939), 257.

[5] E.g. *Bracton's Note Book* (ed. F. W. Maitland), pl. 566, and Bracton's marginal note thereon which goes even further in allowing free disposition of the *maritagium* than the judges did in determining the case in question.

amended at the last moment in order to concede the detachment of such gifts from the ancestral estate at the end of a single generation. This was a blow to the dynastic principle which, in its original shape, the statute may have been designed to reinforce. The reason may well have been, as Professor Plucknett has suggested, that Edward I was afflicted with last-minute fears of the support that principle gave to the power of close-knit baronial families.

Still, the primogenitary rule predominated in England and helped to keep fiefs together, despite that fondness of fathers for their younger sons which Glanville deplored.[1] In France it was otherwise. Customs were various,[2] but most of them gave a specific share of the patrimony to younger sons, and often daughters as well.[3] Leaving aside the customs of the Midi,[4] two types of provision common in the north raised special problems. The eldest son might provide for his younger brothers by enfeoffing them in portions of the patrimony, thus creating rear-fiefs. Alternatively, the younger sons might hold in parage with the first-born—i.e. receive each a portion of the fief, but do no homage to the eldest who remained responsible to his lord for the whole service of the fief. In this way the creation of rear-fiefs was avoided at first; but after the fourth or seventh generation the heirs of the younger brothers did homage to the heirs of the eldest, thus creating rear-fiefs in the long run.[5]

In these ways, then, the operation of family custom made for the break-up of fiefs and, through the creation of rear-fiefs, the removal of parts of them from the direct control of their lords.

[1] *De Legibus*, vii. 1.

[2] For an analysis of the various customs, see E. Chénon, *Histoire générale du droit français*, ii (i), 248 sq.

[3] E.g. the case between Stephen de Sancerre and his two sisters in 1268, where it was adjudged that the latter receive half the fief. This exactly follows the custom of the district which would have applied if the heritage had been partitioned between three brothers. The castle of Marcheville, however, which formed part of the fief, was not to be divided with the rest: E. Beugnot, *Les Olim*, i. 720–1; J. Boutaric, *Actes du Parlement de Paris*, i, no. 307.

[4] In the south generally partition was the rule, and led to an extreme 'morcellement' of fiefs: R. Michel, *L'administration royale dans la sénéschaussée de Beaucaire*, pp. 114–15; A. Molinier, 'Administration féodale en Languedoc', in C. Devic and J. Vaissette, *Histoire générale de Languedoc*, vii (ed. of 1879), pp. 150–1.

[5] For the Norman custom, see E. J. Tardif, *Très ancien coutumier*, c. xlv.

This, naturally enough, encountered opposition from the crown and the greater feudatories, concerned for their control, the services due to them, and the casual profits to be derived from the feudal relationship. Attempts to introduce the primogenitary rule, therefore, appear early in seignorial legislation.[1] Such attempts, however, were sometimes (as in Normandy[2]) limited to the more important fiefs; and the spread of parage tenure may even have been a way of getting round the rule.[3] Thus, the persistence of families in partitioning their inheritances was attacked from another angle in the Ordinance of 1210. This provided that, where a fief was divided between heirs, each partitioner should hold directly of the chief lord.[4] In this way the control and profit of lords would have been preserved; but, though some lords (like the bishop of Beauvais in the 1250's[5]) invoked the act against their tenants, its effect outside the royal demesne was very limited.[6] Impartibility was the rule in the thirteenth century only in the great principalities and the baronies, where royal insistence and dynastic ambition combined to effect this end.[7] Even here there were exceptions,[8] and the battle was often slowly won. As late as 1243 the Lusignan inheritance seems to have been partible to

[1] E.g. in Brittany (Teulet, *Layettes du Trésor des Chartes*, i, no. 337), Normandy (H. Lagouelle, *La propriété foncière dans le très ancien droit normande*, i. 227–30), and Champagne (Declareuil, *op. cit.*, p. 249).

[2] Lagouelle, *loc. cit.*, and cf. F. M. Powicke, *Loss of Normandy*, pp. 68–9, 98–102. The Norman system can also be studied in practice in L. Delisle, *Recueil des jugements de l'Echiquier de Normandie*. Impartibility was the rule for baronies (nos. 137–8), ducal serjeanties (no. 504), *feoda lorice* (no. 598) and even for the fief of quarter of a knight (no. 247). On the other hand, there are many references to heritages which are fully partible (nos. 175, 587, 611, 650, 664, 698); and we even hear of a *feudum lorice* the tenant of which has *participes*; and of two such fees divided between four brothers (nos. 214, 653).

[3] Lagouelle, *op. cit.*, pp. 231–3.

[4] *Ordonnances des rois de France*, i. 29.

[5] Beugnot, *Les Olim*, i. 47, 424.

[6] Declareuil, *op. cit.*, p. 252.

[7] Bloch, *La Société féodale: formation des liens de dépendance*, pp. 315–16; Esmein, *Cours élémentaire de l'histoire du droit français* (ed. of 1895), pp. 210–11. On the impartibility of baronies, see P. Viollet, *Etablissements de Saint Louis*, ii. 36; iii. 285; Boutaric, *Actes*, i, no. 1394 and Appendice, nos. 5, 170A.

[8] For a royal license to partition the barony of Servye in 1268, see Beugnot, *Les Olim*, i. 706.

some degree;[1] and in the sixties Simon de Montfort and his widow were endeavouring to assert their right to a portion of it.[2] They secured no more than a life interest in certain revenues arising from the inheritance; but the principle of impartibility here can hardly be said to have been finally settled until 1298, when a younger brother's claims to a moiety of the heritage were rebutted, and he was told to rest content with the 1,000 livres of annual rent assigned to him for his life.[3] In other provinces, however, even such life interests as these were by this time regarded as hardly permissible. Duke Robert of Burgundy certainly claimed in the 1280's that such a provision for his younger brother was an intolerable dismemberment of his duchy and contrary to the custom of France.[4] But meantime, in many places, the partition of lesser properties went on, producing 'a dismemberment of middling fiefs ruinous to the feudal edifice'.[5]

Thus, to some extent in England and to a greater extent in France, family settlements were destructive of the feudal territorial order. Younger sons and daughters seem to have prevailed against their elder brothers, so that even a father's or donor's express intention to limit their expectations was often nullified;[6] and tenants, in this as so many other ways, seem to have prevailed against their lords. In these tendencies the king's courts in France seem often to have acquiesced; while the English common law courts, and Edward I himself in 1285, supported them. Doubtless the division of patrimonies which resulted was one cause of an impoverished nobility, whose cries become obvious at this time in France,[7] and whose existence in England can be discerned in the rolls of the Jewish exchequer.[8]

III

Meantime, other forces were working in the same direction as family custom. Old motives for the devise of land to vassals,

[1] Teulet, *Layettes du Trésor des Chartes*, ii, no. 3049.
[2] Beugnot, *Les Olim*, i. 263, 308; Boutaric, *Actes*, i, Appendice, no. 21.
[3] *Ibid.*, i, Appendice, no. 928.
[4] *Ibid.*, i, no. 2269; Appendice, nos. 545, 562.
[5] Declareuil, *op. cit.*, p. 252.
[6] E.g. Beugnot, *Les Olim*, i. 444, where a royal grant to X and his heir male does not defeat the expectations of that heir's younger brother.
[7] Viollet, *Histoire des institutions politiques*, ii. 422.
[8] Cf. my *Abbey and bishopric of Ely*, pp. 177, 185–6.

servants and churches had not entirely lost their force. Further, as land began to be looked upon as an investment, traffic in it became keener, and the creation of new wealth brought new classes of men into the investor's market. All the time, too, the circumstances and way of life of many of the nobility made financial embarrassment a recurring experience. Everything combined, in fact, to make the alienation of fiefs one of the problems of the age.

Before turning to the manner in which the problem was tackled, there are certain distinctions to be kept in mind. Alienation might affect the whole fief or only a part. It might merely substitute one tenant for another; or, in the case of subinfeudation, set an intermediate tenant between the lord and the holder of the land. Finally, the beneficiary might be a layman or an ecclesiastical corporation. The latter eventuality raised special problems and must be reserved for special treatment.

Even transactions between laymen, however, involved a complex nexus of interests. In general, perhaps too much freedom on the part of tenants to dispose of their land betrayed a weakening of the power of lords. In this connection the Crown was concerned, not only as a landowner, but also because the power of lords to exact service from their tenants on the king's behalf was imperilled. At the same time, it was not a simple matter of two classes—lords and tenants—with conflicting interests. The very traffic in land itself might make lords into tenants and tenants into lords, so that there was a 'conflict of views in the mind of every magnate'.[1] Finally, not only kings and lords and tenants were concerned, but also families. There was a varying range of heirs naturally concerned that their expectations should not be disappointed. In these circumstances the development of the law and custom touching the alienation of fiefs could hardly be a straightforward one.

In the twelfth century, fiefs had not been entirely inalienable in either country, although some restriction was placed upon the tenant by varying needs to procure the concurrence of his heirs[2] and his lord.[3] In thirteenth century England, on the other hand,

[1] Pollock and Maitland, *op. cit.*, i. 331–2, and cf. Plucknett, *op. cit.*, pp. 103–4.

[2] Glanville, *De Legibus*, vii. 1.

[3] For France, Chénon, *op. cit.*, ii (i), 167–74; for England, Pollock and Maitland, *op. cit.*, i. 332, 346. Glanville seems to imply that a tenant was free to subinfeudate, but that he must obtain the consent of the lord to substitu-

it seems that fathers had freedom enough with their property to disinherit their heirs by selling part or all of it;[1] and even in France the power of the heir to consent or forbid had been whittled down into a right to exercise the *retrait lignager*—i.e. to repurchase the property from the donee at the price the latter had given for it.[2] The rights of lords in France may have been somewhat more durable. Some customs still obliged the tenant to obtain the lord's licence to alienate a fief.[3] In 1225, we even find the Emperor Frederick II insisting on this principle, after he had heard that the count of Toulouse presumed to alienate lands he held of him to the prejudice of the empire and the emperor.[4] Generally, no serious obstacle seems to have been placed in the way of alienation by substitution,[5] though various customs reserved to the lord a right of preemption, to exercise a *retrait féodale*,[6] or to receive some share of the price paid for the land.[7] These rights would be easier to safeguard to the extent that lords were able to insist that transfers of land should take place by surrender and admission in their courts.[8] Prior authorization was more likely to be demanded

tion: H. Brunner, 'The History of English Law', *Political Science Quarterly*, xi (1896), 539.

[1] Holdsworth, *History of English Law*, iii. 75, and Maitland, *Bracton's Note Book*, i. 134. In at least two of the cases Bracton collected (pl. 1054, 1102) the right of the father to alienate the heritage was supported by the courts despite the protest of the heir. This situation may even have some bearing on the early history of entails: see particularly the circumstances described in pl. 36.

[2] Bloch, *La société féodale: formations des liens de dépendance*, p. 220. For examples of its use to prevent alienations in mortmain, see Beugnot, *Les Olim*, i. 444, 497. Heirs would also have the support of the courts against any attempt by donees to make a profit on the transaction, or even to recover compensation for improvements to the property while it was in their hands: Boutaric, *Actes*, i, nos. 748, 1825.

[3] According to Chénon, *op. cit.*, ii (i), 168, this was the rule in Normandy, Champagne and Burgundy. In Normandy, however, a tenant seems to have had some freedom with one-third of his holding; he could mortgage it or devise it by will, give it as a marriage portion, or devise it in mortmain: Delisle, *Jugements de l'Echiquier*, nos. 595, 765, and Tardif, *Très ancien coutumier*, c. lvii. 4, lxxxix.

[4] Teulet, *Layettes du Trésor des Chartes*, ii, no. 1700.

[5] E.g. Tardif, *Très ancien coutumier*, c. xc.

[6] Bloch, *op. cit.*, p. 324; Declareuil, *op. cit.*, pp. 259–60.

[7] Viollet, *Hist. du droit civil français*, p. 652.

[8] For an example of this procedure from 1226, see Teulet, *Layettes du Trésor des Chartes*, ii, no. 1745.

for alienation of parts of a fief, for that might endanger the tenant's capacity to perform the services due from it; and it might be made conditional upon the purchaser becoming the direct vassal of the overlord for his portion of the fief.[1] In general, indeed, opposition to subinfeudation hardened. In Champagne, only barons had the right to subinfeudate; in Burgundy, this power was withdrawn from all unless they procured the prior consent of their overlords. How effective these restraints were it is hard to say, particularly as their object in some cases was less to prevent alienations than to designate occasions when lords might profit by making a charge for their license. Sometimes the need to obtain consent to alienation was disappearing in the strict sense, only to be invoked when tenants failed to render the requisite payment to their lord.[2]

In all this, the state as such plays little part. It does not legislate, and the judgements of the royal courts take cognizance of local custom or refer to the demesne. It was also difficult for royal policy to be consistent, for the crown derived advantages from the alienability of fiefs. The demesne was extended by the purchase of fiefs from crown tenants lacking heirs or encumbered with debts;[3] and it was one of the grievances of the nobility that the king made similar acquisitions in fiefs and rear-fiefs held of them.[4] On the other hand, the king was as concerned as any other lord at the loss of control and casual profits he suffered from the alienation of fiefs held directly of him. He therefore imposed restraints upon them which were sometimes enforced against his greatest subjects. In the 1270's, royal officials seem to have been taking into the king's hand lands alienated by the count of Poitiers and Toulouse[5]; and in 1265 the king had compelled the marshal of France to resume a meadow sold without license to a certain knight, because in so doing he had diminished his barony.[6] Indeed, these restrictions, perhaps because they spoiled the market for noble land and almost certainly because the king's consent had

[1] Viollet, *op. cit.*, pp. 652–3.

[2] Viollet, *Établissements de Saint Louis*, i. 162–3.

[3] Luchaire, *Manuel des institutions françaises*, p. 241.

[4] *Ordonnances*, i. 358 (art. viii); Langlois, *Hist. de France*, iii (ii), 268. There was a good reason for this opposition. Since the king did homage to no man, the services which vassalage entailed were lost to the lord of any fief the king acquired: L. Halphen, *A travers l'histoire du moyen âge*, pp. 266–74.

[5] Boutaric, *Actes*, i, no. 1903.

[6] Beugnot, *Les Olim*, i. 604.

to be dearly bought, became grievous, and the leagues of the early fourteenth century complained of them.[1]

This attitude to alienation is perhaps analogous to that shown towards another of the ways in which vassals dissipated their resources—by enfranchising the serfs in their fiefs. Here again the Crown imposed restrictions, though hardly out of sheer conservatism. Mass manumissions of serfs, that were essentially fiscal operations, began on the royal estates under St. Louis.[2] But if on its own lands the crown 'taxait à prix d'argent la liberté', it sought to do the same on the lands of its vassals. To free a serf was to 'abridge the fief'; it needed the consent of the lord of the fief.[3] If the fief was the king's, then his consent was needed and that might be a costly matter. The Dean and Chapter of Orléans had to promise to pay the king 200 livres in 1225 in the event of their manumitting any of their serfs.[4] If this royal consent was not sought when manumitting a serf, the serf passed, with all his disabilities upon him, to the Crown.[5] The motive was purely fiscal, and was probably similar to that which governed many other dealings of the French monarchy with the land.

Yet a further question might arise in connection with the alienation of land in France. A lord might be prejudiced, not only by the alienation of the fief, but also by the status of the recipient of the land. It was a matter of concern if the fief passed to a mere bourgeois or flourishing countryman; for such men bought for investment[6] and might be thought unfitted to assume the obligations of a fief. This purchase of fiefs by non-nobles may even have been prohibited altogether in the thirteenth century by legislation 'promulgated for the benefit of gentlemen'[7]; but the prohibition must have been impossible to enforce and, as usual, the Crown showed willingness to relax it, doubtless at a price. In 1273 the men of Toulouse were permitted to retain those fiefs they had

[1] Viollet, *Histoire des institutions politiques*, ii. 250.

[2] M. Bloch, *Rois et Serfs*, pp. 60 sq.

[3] So Odo, lord of La-Chapelle-St-Sepulchre sought the consent of Theobald of Champagne for the manumission of a serf in 1239: Teulet, *Layettes du Trésor des Chartes*, ii, no. 2762.

[4] Teulet, *op. cit.*, ii, nos. 1670, 1691.

[5] E.g. Boutaric, *Actes*, i, nos. 151, 1642; and on all this see Chénon, *op. cit.*, ii (i), pp. 68–70, and Esmein, *op. cit.*, pp. 247–8.

[6] Ganshof in *Cambridge Economic History*, i. 291.

[7] C. V. Langlois, *Philip III le Hardi*, pp. 259 sq.

acquired through inheritance or marriage or held for more than twenty years.[1] Casual licenses were elaborated into a system by the ordinance of 1275,[2] which legitimized past acquisitions in the king's fiefs and rear-fiefs in return for a payment to the Crown. Similar enactments were made by subsequent kings,[3] though the cost of the king's license tended to rise. Once again the situation had been turned to the fiscal advantage of the Crown.

Turning to England, there are at first sight many differences. Manumissions and the purchase of fiefs by non-nobles raise few problems. Yet the general background was very similar. In England, too, there was a busy market in noble land. A 'quiet movement towards the establishment of tenant right' was already discernible at the beginning of the thirteenth century.[4] Fees were being divided, townsmen were investing in land, and the very word *feodum* was coming to mean no more than heritable land. By 1279 subinfeudation had gone so far as to make some of the entries in the Hundred Rolls a sonorous catalogue of empty titles. The traffic in fees and the subinfeudation of feudal tenements were problems as keenly felt in this country as they were in France.

In many ways the state seems not to have been unfavourable to the feudal tenants. Most of the legislation about distress was in their interests,[5] and the courts seem to have favoured the free alienability of land. Bracton argues that a lord may not refuse a substituted tenant, and that subinfeudation does no *injuria* to a lord.[6] Lords hardly agreed with him on this latter point. They had sought to guard against some of the consequences of unfettered alienation and subinfeudation in the Charter of 1217; and the *injurie* which might ensue were very succinctly summarized by the lord of Greystoke in 1278. He feared that

> many advantages might be lost to him and grievous prejudice ensue if he allowed a fee of his . . . to be alienated, so that he would be separated from the wardships and reliefs thereof, and

[1] Boutaric, *Actes*, i, nos. 1941, 1948A, Appendice, no. 159; Devic and Vaissette, *Histoire générale de Languedoc*, x, (Preuves), col. 121–2.

[2] *Ordonnances*, i. 303–7. [3] E.g. *ibid.*, pp. 322–4.

[4] F. M. Powicke, 'Observations on the English Freeholder', *Festschrift Alfons Dopsch*, p. 384.

[5] Plucknett, *op. cit.*, p. 61.

[6] *Ibid.*, p. 104; Holdsworth, *History of English Law*, iii. 79. The latter also observes (p. 82) that the objection of the tenant was equally no bar to the transfer of the seignory by the lord.

likewise (the king) should the aforesaid barony fall into his hands and custody.[1]

This appeal to the royal interest was doubtless wise, for there are signs that a clear policy was consistently pursued by the Crown. Already King John had treated royal serjeanties as inalienable and impartible,[2] and instituted enquiries which extended the principle to 'knights fees and all manner of tenements which are held of us in chief'.[3] In 1256 Henry III forbade tenants-in-chief to alienate without license on pain of forfeiture, for thereby the king lost his wardships and escheats and the barons were to that extent the less able to perform the services they owed to the king.[4] It was part of the duty of the commissioners of 1274 to reveal such alienations[5]; and a few years later it was argued that 'the lord king has a special prerogative attached to his crown, namely that it is not lawful for anyone to alienate his fee without his special license.'[6] At the same time, the fact that this was a distinctive disability of tenure in chief (indeed of tenure in chief *ut de corona*) seems to be emphasized by certain petitioners in parliament in 1325. The king, they say, has been confiscating alienations in divers honours forfeited to him for rebellion, despite the fact that previously men could buy lands and take feoffments therein without permission from their lords.[7] Clearly, at least, the concern of the Crown about alienation and subinfeudation was continuously demonstrated in the thirteenth century.

[1] *Select Cases in the Court of King's Bench* (ed. G. O. Sayles, Selden Soc.), i, pl. 34. It might, of course, be possible to guard against these eventualities by private agreement, and *Bracton's Note Book*, pl. 543, may indicate one of the ways of doing so. It records a declaration by Agatha, daughter of Alan of St. George, that she had made a covenant with Brian Lisle (is he her lord?) that she would not alienate any of her heritage without his consent; and that if she wished to do so, she would give him a right of pre-emption.

[2] *Curia Regis Rolls*, ii. 68; iv. 34–5; Pollock and Maitland, *op. cit.*, i. 290.

[3] *Red Book of the Exchequer* (ed. H. Hall, Rolls Ser.), ii, p. cclxxxv.

[4] *Close Rolls*, 1254–6, p. 429. It may be that all memory of this enactment was lost until it was discovered by Mr. Turner in very recent times (*Select Cases in the Court of King's Bench*, iii, p. xlvii); but the principle which it embodied remained very much alive.

[5] *Rotuli Hundredorum*, i. 13.

[6] *Select Cases in the Court of King's Bench*, i, pl. 35; and cf. ii, pl. 36, and *Fleta* (ed. J. Selden, 1685), p. 198: 'Dari non potuerunt sine regio assensu tenementa que de rege tenentur'.

[7] *Rotuli Parliamentorum*, i. 430.

In other ways, too, the Crown had shown awareness of the problems of landlords. It legislated against collusive enfeoffments which deprived lords of wardships; and lords must have derived some benefit from the actions of *cessavit* and *mesne*. But it was the freedom of tenants to subinfeudate which provoked the most radical action. The statute *Quia emptores*, in order to safeguard the right of lords to their feudal incidents, simply abolished this way of alienation.[1] By doing so, Edward met the wishes (in the words of the statute) of 'the magnates and many other lords', whose expectations were being whittled away by the excessive freedom of tenants. Above all, he was serving the interests of the magnates, who had most to lose, and who might expect a significant accession of strength as the slow process of escheat and forfeiture restored to them that direct contact with the occupying tenant which they had so often been losing in the thirteenth century.

IV

One other type of alienation remains—alienation to churches. It was common because it was a means to salvation. It was common, too, because the great ecclesiastical landlords were the most efficient of their day, and accumulated capital which could be invested in yet more property.[2] The consequences for the lords of such property are well enough known. These 'immortal and soulless corporations' did not die or forfeit or leave minors; they very seldom alienated their land. Thus a whole range of profitable incidents were lost to the immediate lord; and any lords above him had their expectations reduced should the fief ever revert to their hands. It was therefore reasonable to call alienation in mortmain an abridgement of the fief[3]; and opposition to it may be found early in private contracts—in Languedocian charters before the end of the twelfth century and in English deeds of the early thirteenth century.[4]

[1] Plucknett, *op. cit.*, pp. 102 sq.

[2] Devic and Vaissette, *op. cit.*, vii. 157; Ganshof, in *Cambridge Economic History*, i. 285.

[3] Restrictions against alienations applied, therefore, particularly to land held in feudal tenure: see the letter of St. Louis to the citizens of Tournai in R. Wauters, *Libertés communales* (Preuves), p. 129.

[4] Devic and Vaissette, *op. cit.*, vii. 157; Miller, *Abbey and bishopric of Ely*, p. 130 n.

The problem of mortmain, however, was not left merely to private solution. In France, the customs tackled it in a number of ways.[1] One course was to compel churches to put their acquisitions, on pain of forfeiting them, out of their hands within a year.[2] Alternatively, they could obtain the consent of the lords of the fief to its abridgement. Since lords were in a position to refuse this consent[3] and to confiscate acquisitions made without licence,[4] they could levy a charge for their acquiescence and increase their profit by impugning titles already venerable on the ground that consent had not been sought for some old transaction.[5] The cost to the churches was further enhanced by the fact that they might have to purchase the license, not only of the immediate lord of the fief, but also of every lord above him up to the king. Thus grievances mounted on both sides. If the king and the lords were concerned for their services and feudal incidents, the churches were grieved by the exploitation to which circumstances exposed them. The situation may have been brought to a head in the early seventies by a more than usually keen scrutiny of ecclesiastical acquisitions in the royal domain.[6] The 'constitutio ecclesiarum utilitati'[7] of 1275 may have been in part the outcome of the political issues raised by these enquiries and the administrative experience gained in carrying them out.

This act of 1275 provided, in the first place, that royal officers should no longer interfere with past ecclesiastical acquisitions in

[1] For what follows see Esmein, *op. cit.*, pp. 276–9; Chénon, *op. cit.*, i. 785–90; Luchaire, *Manuel*, pp. 175–7; and Viollet, *Etablissements de S. Louis*, i. 163; ii. 244–6.

[2] Beugnot, *Les Olim*, i. 443, 717; Teulet, *Layettes*, ii, no. 2276; Boutaric, *Actes*, i, Appendice, no. 33. In Normandy this rule applied to all acquisitions made in the fiefs of churches, and those for which churches could not properly perform the service due: Tardif, *Très ancien coutumier*, c. lvii. 5, 6.

[3] E.g. Boutaric, *Actes*, i, nos. 1503, 1836.

[4] *Ibid.*, no. 1470.

[5] So much is implied by the royal licence to Lagny to retain a fief given to the monastery by a certain knight forty years and more earlier: Beugnot, *Les Olim*, i. 474.

[6] For the confiscation of unlicensed acquisitions see Boutaric, *Actes* i, nos. 1820, 1821, 1831. At this stage, the king seems to have been willing to accept twenty years tenure as giving a valid title (*ibid.*, Appendice, no. 118B)—a period extended to thirty years in 1275.

[7] So called in a letter to the seneschal of Toulouse: Devic and Vaissette *op. cit.*, x (Preuves), col. 241; for the text, see *Ordonnances*, i. 303–7.

territories the lords of which had the right to amortize; or where the consent of three successive mesne lords standing above the donor had been obtained; or, in the royal domain, where titles went back thirty years or more. Secondly, more recent acquisitions in the king's lands, fiefs or rear-fiefs were to be put out of the hands of churches within a year unless they were willing to pay an indemnity specified in the ordinance. Finally, a declaration attached restricted the right of amortization to the king, the twelve peers of France, and five great counts. Two years later, the right of the episcopal peers to amortize was restricted still further to their rear-fiefs, and was not to be used in their demesnes and fiefs.[1]

In one sense these provisions were favourable to the churches. A precise figure was set upon the cost of the royal license to acquire land; some limit was imposed upon the number of lords whose compliance had to be bought; and a term was fixed beyond which no payment was required for royal confirmation of past acquisitions. On the other hand, if the king made concessions to the church, he significantly extended his interest in the demise of lands into mortmain by his subjects. This fact did not escape attention at the time. The barons and other lords of Normandy complained that they were being robbed of powers they had previously enjoyed of permitting churches to acquire lands in their territories; and the nobles of Languedoc protested at the king levying new charges in their fiefs.[2] The count of Forez even hastened to take fines from churches for their acquisitions in his domains, in order to anticipate the exercise of the royal right to do so.[3] Finally, it should be remembered that the act applied only to the past. It did not exempt churches from obtaining the consent of the lord of the fief to new acquisitions as ancient custom and royal edict decreed[4]; and such acquisitions might, as before, have to be put out of their hand.[5] But if the act of 1275 had been an act of moderation, it had also been a fiscal experiment. In 1283 at least one monastery was constrained to pay the charges for

[1] *Ibid.*, p. 305; Boutaric, *Actes*, i, no. 2119 and Appendice, no. 294.

[2] Langlois, *Philippe III le Hardi*, pp. 206–7.

[3] E. Perroy, 'Le cartulaire des amortissements de Forez', *Le Moyen Age*, 4th ser., iv (1949), 274.

[4] Boutaric, *Actes*, i, Appendice, no. 701.

[5] E.g. *ibid.*, i, no. 2131, and Devic and Vaissette, *op. cit.*, x (Preuves), col. 241.

amortization on acquisitions made subsequent to the ordinance[1]; and in 1291 Philip the Fair enacted a measure very similar to that of 1275, but with higher charges for the king's license.[2] This was the beginning of a series of such acts, and the later history of royal dealings with mortmain leaves no doubt that 'it was the fiscal motive which predominated'. Yet even the ordinance of Philip the Bold, ostensibly 'designed in the interest of the churches,[3] had not neglected this side of the matter.

The problem of mortmain was no less acute in England. It was a grievance in 1258[4]; and in 1259 the devise of land to churches was forbidden without the license of the lord of the fee.[5] But this prohibition was not embodied in the Statute of Marlborough; and the very terms of the baronial grievances suggest that the magnates of England had lost control of these (like other) transactions of their tenants. So the problem remained until Edward I dealt with it in that remarkable statute of 1279 which flatly forbade churches to acquire any land whatever.[6] The execution of this statute, however, as Professor Plucknett has demonstrated, makes its terms almost irrelevant. In fact it was used to confer upon the Crown the sole prerogative of amortization. Churches could still acquire lands provided they purchased a license from the king to do so. Such royal licenses, however, may not have been conceived as dispensing churches from obtaining the consent of the lords of the fee—just as, to appropriate tithes, they needed the permission of the bishop.[7] If that is so, then the Statute of Mortmain, though administered with the fiscal advantage of the Crown in view, may also have restored (like the statute *Quia emptores*) a control they had been losing to the lords of the land.

[1] Boutaric, *Actes*, i, no. 2501.

[2] *Ordonnances*, i. 322–4. The tariff of charges, furthermore, was a minimum and not a maximum one. The commissioners were told to double them in certain districts where the price of land was high; and in all cases they were to increase them if possible and not to lower them on any account.

[3] Chénon, *op. cit.*, i. 790.

[4] Petition of the Barons, c. 10.

[5] Provisions of Westminster, c. 14.

[6] On this and what follows see Plucknett, *op. cit.*, pp. 96–102.

[7] *Select Cases in the Court of King's Bench*, iii, p. xxxix. The two cases are not of course (as Professor Cheney has pointed out to me) directly comparable. The appropriation of tithes was governed by Canon Law, and not by the law and custom governing the transfer of feudal tenements.

V

Finally, perhaps I may be permitted a few very tentative concluding remarks. First, there are many common features about the general direction of social evolution in the two nations. Both in France and England, family settlements and the traffic in land were causing the disintegration of feudal tenements, the units upon which at one time feudal burdens had been assessed. This in itself betrays a weakening of the power of lords, and their control over the land was further relaxed as family settlements and the traffic in tenements not infrequently interposed between the lord and the land a varying number of intermediate tenants. Indeed, there are times when one feels that lords had abandoned interest in the land their tenants held, and were seeking merely to capitalize the superiority which remained to them. Charges upon alienation and succession, escheats and forfeitures, wardships and marriages—these occasional incidents seem to be the profits of lordship which arouse concern in the thirteenth century. In some ways, it is true, the lords of France may have lost more ground than the lords of England. They had dissipated more of their rights over the peasantry before the thirteenth century began, and were less able to profit directly from the boom in agricultural profits. In consequence, the French peasant acquired a stronger proprietary right in the soil than his English counterpart,[1] and the 'crise nobiliaire' may have set in at an earlier date in France.

In other respects, however, the lords of France may have lost less ground than their English counterparts. Before the statutes of Mortmain and *Quia emptores*, the English magnates seem to have been losing rapidly all control over the devolution of their fees. Only the king had that 'special prerogative attached to his crown' which enabled him to exert such control. The lords of France had similar difficulties; but they may have been somewhat less serious because the judicial powers at their disposal to enforce control were less impaired. At the same time, they seem to have used these powers, not so much to maintain the integrity of fiefs as to exact a profit from their dissolution. This practice, combined with the fall in the real value of seignorial incomes and the partition of inheritances, seems to be destroying middling feudal property in

[1] Cf. Bloch, *Caractères originaux*, pp. 120–1.

thirteenth century France. The greatest amongst the nobility may not have been altogether the losers from this tendency. Along with the monarchy and the bourgeoisie, the close-knit dynasties ruling the provinces perhaps fell heir to some of the property dissipated in this manner by the holders of fiefs. On the other hand, the development of a squirearchy out of the vassalic ranks of French feudalism may well have been stunted. In England too, of course, men fell out of the middling feudal order in the thirteenth century; but the result was not so much the disintegration of a class as consolidation within it—a process probably aided by the general prevalence of primogeniture, and by the closer grip of English landowners on the soil in a period of high agrarian profits.

Turning to the action of the state, again there are many similarities to be noticed. There are common features in the policies adopted in the royal demesnes. Both monarchies had similar interests as feudal overlords which did something to shape the pattern of their legislation and the judgements of their courts. Both had pressing fiscal needs which helped to inspire their treatment of some of the problems which confronted them. Yet the legislation of thirteenth century France, on matters with which this paper has been concerned, has neither the scope nor the comprehensiveness of that of contemporary England. Even at the end of the century, the French monarchy was still only one amongst competing legislative and judicial authorities; and there was still much that was tentative in its incursions into the domain of private law.[1] Where it did intervene, it tended to do so very much in the manner of a mere feudal lord writ large, concerned to assert a feudal superiority and (particularly later in the century) to exploit that superiority for fiscal ends. By contrast, the statutes of Edward I have, in Maitland's words, 'a characteristic that makes them unique', in that 'they enter into the domain of private law and make vast changes in it'.[2] In some respects they halted the tendencies of a century, even where those tendencies had won the blessing of the courts of common law. They did something to

[1] For the limitations of the royal legislative authority, even under Philip the Fair, see Fawtier, *op. cit.*, vi. 66–7; and for its slight concern with the domain of private law, Chénon, *op. cit.*, i. 530–1 and Viollet, *Histoire des institutions politiques*, ii. 200–2.

[2] *Constitutional History of England*, p. 19.

restore to the lords of the land control over their property. So much may have seemed no more than necessary if the magnates were to play their proper part in an ordered community. At the same time good laws were made for the poor folk—laws which did something to consolidate the past gains of the tenant, as well as to specify ordered process as the proper recourse of all. The constructive, if not always disinterested, intervention of the state in shaping the private law of England, the curiously modern appearance of its endeavour to stabilize and direct the processes of social change, are not the least remarkable of the many remarkable features of thirteenth century English history.

THE SMUGGLERS' TRADE: A NEGLECTED ASPECT OF ENGLISH COMMERCIAL DEVELOPMENT[1]

By G. D. Ramsay, M.A., D.Phil., F.R.Hist.S.

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I

SOME share—fluctuating and uncertain, but assuredly significant—of English foreign trade in modern times is to be credited to smugglers, who were ever busy in evading customs regulations and prohibitions.[2] Mere administrative watchfulness and thoroughness could never do more than damp their activities; it was only the triumph of free trade in the early Victorian age that deprived them of their livelihood, and until then they were able to match by increase of cunning and of organization the ever more elaborate network of the customs system—its spies, its coastguards and its cutters as well as its routine officials at the ports. The smuggler flourished right down to the end of the period of protection, despite sporadic seizures by the revenue officers. In the first half of the nineteenth century, French wines, brandies and luxury textiles were being

[1] The text of this paper has benefited from the criticisms and suggestions of Professor R. B. Wernham, who was kind enough to read it in typescript. Responsibility for shortcomings remains, however, with the writer.

[2] Various books have been written about English smugglers, the largest work being the two volumes of Lord Teignmouth (H. N. Shore) and C. G. Harper, *The Smugglers. Picturesque Chapters in the History of Contraband* (1923), but for present purposes these are of little value. Far more helpful are accounts of the customs and financial administration, and much use has been made, without further acknowledgement, of the following: F. C. Dietz, *English public finance, 1558–1641* (New York, 1932), N. S. B. Gras, *The early English customs system* (Cambridge, Mass., 1918), E. E. Hoon, *The organisation of the English customs system, 1696–1786* (New York, 1938), and A. P. Newton, 'The establishment of the great farm of the English customs', *Trans. R.H.S.*, 4th Ser., i (1918).

punctually shipped across the Channel in the teeth of prohibitions. In the other direction, we know, for instance, of the existence in the same period of so remarkable a phenomenon as the muslin manufacture of Tarare, near Lyons, which relied for its raw material upon the assured supply of English yarn owled abroad.[1] But it was probably the eighteenth century, when customs regulations were at their most burdensome and complicated, that marked the classic epoch of illicit trade, the period in which the technical skill of both breakers and defenders of the law might earn the highest rewards.

The persistence and ingenuity of the smugglers was matched on the side of authority by the elaborate system of check and registry that was unfolded in all its complexity on occasions such as the arrival in home waters of a great East Indiaman or a tobacco carrier from America bound for London. A smuggling cutter, ready to take off what goods it could, or a custom house schooner, alert to prevent such a transfer, might be met as soon as the ship entered the Channel.[2] Direct and continuous surveillance began when she reached the Downs; here the first batch of tidesmen was put on board or, after 1749, a customs galley was set to watch her until she turned into the mouth of the Thames, where the river officers were on the watch and revenue sloops cruising. 'Head and stern boats' were attached at Gravesend to guard the vessel by day and night and here too more tidesmen boarded her; it was their duty to keep in touch with the head and stern boats as the ship, if she came from India, sailed to anchor at Blackwell, where the 'rummaging' began and the cargo was unloaded on hoys and deposited in special warehouses for appraisal.[3] The goods were now rated for tax according to most complicated lists of

[1] J. H. Clapham, *An economic history of modern Britain* (Cambridge, 1930), i. 247–8; *The economic development of France and Germany. 1815–1914* (Cambridge, 1928), pp. 75, 115. Smuggled Swiss yarn was also used at Tarare.

[2] Cf. the revealing incidents narrated by W. Hickey, who travelled home on the *Plassey* in 1770: *Memoirs of William Hickey*, ed. A. Spencer (1914), i. 248–50.

[3] H. Atton and H. H. Holland, *The King's customs* (London, 1908), i. 220–1; *Report of the committee appointed to inquire into the frauds and abuses in the Customs* (1773) in *Reports from committees of the House of Commons which have been printed by order of the House, and are not inserted in the Journals* (1803), i. 604.

customs duties—it took several years to consolidate them in the eighties—and oaths were taken and declarations made and a whole hierarchy of officials went about its task to make sure that there was no cheating. Some of the entries required for record were so complicated that the customs officials were actually paid by the merchants to make them on their behalf. The statements and figures ultimately found their way to the hub of the London customs administration in the famous Long Room at the Custom House; here all returns were gathered and sifted and ultimately embodied in the superficially impressive statistics prepared annually by the Commissioners of the Customs for submission to parliament.

The elaborate customs administration of Great Britain in the eighteenth century was riddled with abuses. At the top, the chief posts were often held by noble sinecurists who drew large salaries and put in deputies, if necessary, to do the actual work; the best-paid offices at the port of London were in 1792, for instance, held by the dukes of Manchester and Newcastle and lords Pelham and Stawel.[1] Below them, the poor and irregularly paid salaries of the rank-and-file were an inevitable encouragement to corruption. Customs officers as a whole were a very mixed lot; the sales of places had been forbidden at various times and they were picked according to the conveniences of political patronage, with the result that 'Country Fox-hunters, Bankrupt Merchants, and Officers of the Army and Navy—without the least knowledge of the Business of the Revenue and too late in Life to acquire it' were liable to be appointed.[2] Some were hard-working and conscientious men and the zeal of others was stimulated by their right to a share of the contraband they might seize, but plenty were open to bribes and large numbers were dismissed from time to time as a result. Much never came to light. Sir Randolph Knipe, an early eighteenth-century London merchant with interests in both the Baltic and the Mediterranean, habitually suborned the land waiters to let his goods pass without proper payment of taxes, and it is difficult to resist the impression that

[1] A list is printed by A. L. Cross, *Eighteenth century documents relating to the royal forests, the sheriffs and smuggling* (New York, 1928), pp. 284–5. Cf. also L. A. Harper, *The English navigation laws* (New York, 1939), ch. viii.

[2] Cross, *op. cit.*, p. 250.

he was remarkable only by reason of the unlucky exposure of his misdeeds.[1]

But while there was an immeasurable leakage of goods owing to the venality of customs employees, there was also a violent, colourful and perhaps even romantic side to smuggling. Notorious staging-posts for illicit trade were provided by the Isle of Man to the west, until the government was at length provoked in 1770 into buying out the sovereign rights of the duke of Atholl, to the south by the Channel Islands and to the east by the Dutch and Flemish ports; but there is no reason to believe that smuggling was at all localized. As the century wore on, the gangs organized to receive the goods landed secretly grew in range and audacity. Ships were built specially and with no end other than to run contraband from the continent[2]; such vessels mounted up to eighteen or twenty guns, and if they could not scare away a revenue cutter their crews might hope to hide their freight by a variety of ruses. In the north-west, there were in the eighties said to be ships of 150 or 200 tons operating, well armed with crews of thirty or forty, so that as much tea and brandy was being run as in the days when the Isle of Man was private property.[3] At the landing of goods, bloodshed and even pitched battles might occur, particularly if the revenue officers had sought military aid; the gangs of smugglers sometimes amounted to a hundred or more persons—'desperate Fellows, armed with Pistols, Hangers and other Weapons'—who quickly saw to the removal and dispersal inland of the cargo they had landed.[4] Much illicit traffic naturally converged on London, where even foreign envoys were believed to make use of their diplomatic immunity to conceal smuggled goods.[5] Stockwell, 'a hamlet in the parish of Lambeth', was notoriously 'a place of Resort and Security for the Smugglers, who were there grown so numerous and resolute that no Officer dared to molest them, without a very large military force'.[6]

It is of course impossible to do much more than guess the proportion of English foreign trade that eluded the customs net

[1] *Report of the committee appointed to inquire into the frauds and abuses in the Customs*, Appendix XXVIII, pp. 651–4.

[2] D. Arnold-Foster, *At war with the smugglers* (1936), p. 26.

[3] Cross, *op. cit.*, p. 239.

[4] *Ibid*, p. 312. [5] *Ibid*, p. 243. [6] *Ibid*, p. 313.

in the eighteenth century. There were large-scale smuggling interests involved, for instance, in the clandestine eastern trade that sheltered itself in these years behind the rights of the companies located, at least in name, at Copenhagen, Lisbon, Ostend or Trieste, though their ships were often financed by British capital and manned by British sailors.[1] But the incidence of smuggling doubtless varied from year to year, though it seems to have risen to an unprecedented pitch after the revolt of the American colonies; as the tenth earl of Pembroke wrote in 1781, 'Will Washington take America, or the Smugglers England first? The bett would be a fair, even one.'[2] A year or so later, a customs collector remarked that smuggling had been reduced to such a science that there was a graduated tariff for the supply of goods, the cheapest rates applying to the transfer at sea to small coasting boats and the dearest to delivery inland.[3]

A very conservative estimate in 1733 put the share of smugglers in English commerce with France and Holland as equal to a third of the legitimate traffic.[4] The statement of Adam Smith that the chief merchants in trade between England and France on either side of the Channel were smugglers would apply to an only slightly later period.[5] His contemporaries deplored the way in which a knowledge of the coasts, all too useful for an invader, was being acquired by Frenchmen through smuggling.[6] Smith further observed how impossible it was to prevent the secret import of tea carried by the Dutch, cheaper because of their lower freight rates.[7] Other evidence suggests that most of the tea drunk in Great Britain in the seventies was smuggled.[8] Another estimate at this time had it that the smugglers deprived the revenue of two-fifths of its customs levies, a proportion to be further swollen by 'the prodigious increase of frauds' in the early

[1] H. Furber, *John Company at work* (Cambridge, Mass., 1948), ch. iv; W. R. Scott, *The constitution and finance of English, Scottish and Irish joint-stock companies to 1720*, ii (Cambridge, 1910), pp. 202–4.

[2] *Pembroke Papers (1780–94)*, ed. Lord Herbert (1950), p. 179.

[3] Arnold-Foster, *op. cit.*, pp. 34–5.

[4] G. N. Clark, *Guide to English commercial statistics, 1696–1782* (1938), p. 114.

[5] A. Smith, *The wealth of nations*, bk. IV, ch. iii.

[6] G. B. Hertz, *The old colonial system* (Manchester, 1905), p. 57.

[7] Smith, *Wealth of nations*, bk. IV, ch. i.

[8] Cross, *Eighteenth century documents*, p. 295.

eighties.[1] There were complaints that honest men were being driven out of business, and it would certainly not be difficult to cite numerous examples of the way in which smugglers dominated trade in many districts. As the Commissioners of Excise in 1783 put it, 'Armies of Smugglers are every day riding with Impunity through the Counties upon the Sea Coast, and sometimes enter the Capital at Noon Day'.[2] A parliamentary committee rightly pointed out in the following year that only a reduction in duties would diminish smuggling,[3] and it is in no way surprising that one aim of the younger Pitt in devising new taxes was to avoid having them levied at the ports. His drastic consolidation of the tea duties had one important result in making the China trade once more profitable for the East India Company.[4]

Long practice in the deceits and stratagems of illegitimate trade had thus enabled smugglers to reach a high point of ingenuity and attainment in the eighteenth century. By then their game had behind it a considerable history along the English coast—how considerable, it now remains to be seen. It is, however, less easy to explain the origins than the demise of organized large-scale smuggling. Long before the end of the middle ages, the English monarchy had achieved a precocious economic and fiscal unity, and with it had come into existence a series of officials who levied taxes at the ports on goods imported and exported. Cheating and petty fraud must have been familiar enough in medieval times to these customs officials, and smuggling far from unknown.[5] Nevertheless, the comparatively limited volume of trade, its dissociated and restricted channels by both sea and land and its partial occupation by German and Italian merchants accustomed to look for favours from the government at London—all these factors combine to make it at least unlikely that commercial interests were then ever organized on any considerable scale for the persistent evasion of the taxes levied at the ports. If this be accepted,

[1] Cross, *Eighteenth century documents*, pp. 289–90. [2] *Ibid.*, p. 290.

[3] *Third report of the committee appointed to inquire into the Illicit Practices in Defrauding the Revenue* (1784) in *Reports from the committees of the House of Commons . . . not inserted in the Journals* (1803), xi. 286.

[4] Furber, *John Company at work*, p. 264.

[5] Information on this point is supplied by M. H. Mills in *The English government at work, 1327–1336*, ed. W. A. Morris and J. R. Strayer, ii (Cambridge, Mass. 1947), pp. 179–87. An actual case of smuggling is mentioned on pp. 181–2.

then a similar inference must follow even more surely, though on rather different grounds, for the first half of the sixteenth century, a period in which trade was increasingly canalized in the hands of the Merchants Adventurers through London and so to the Antwerp market. The Merchants Adventurers were at this time a closely organized body, quick to resent any deviation from their regulations; nor could any large-scale continuous smuggling of the chief exports long be kept dark at Antwerp. Above all, there was in these years no more motive for the setting afoot of illicit commerce than for seeking new markets; save for one or two brief setbacks, legal trade was buoyant and the London merchants were making their fortunes.

It is thus to the later sixteenth century that—*a priori*—our attention should be drawn in any attempt to throw light upon the origins of large-scale smuggling. There was assuredly no lack of general circumstances to tempt Elizabethan merchants into contraband traffic. There was the disruption and disappearance of the familiar and once so profitable market at Antwerp, which was forcing them to experiment in novel channels of trade; the organization of the Merchants Adventurers became bolder but less complete and its fleets not so regular. We know of interloping English merchants who disregarded the regulations about the mart town and pressed southwards to Frankfurt-on-the-Main and Nuremberg to sell their goods; in the Netherlands the recognized haunt of the interlopers was first at Flushing and then at Amsterdam.[1] It is also to be recalled that the character of English maritime trade was changing; the internal market for silks, satins and other luxury articles of small bulk was growing, while exports now included more metal products, as well as armament materials and finished cloths—the 'new draperies'—that were sold in more and more widely scattered places abroad. But perhaps most important of all was the unintentional meed of encouragement offered to illicit traders by the government, which for lack of other sources of supply was now trying hard to extract more revenue from the customs, thus directly stimulating merchants to evade the tax gatherers. New export duties were laid on cloth and beer in 1558, and the general tariff for both exports and imports was

[1] C. te Lintum, *De merchant adventurers in de Nederland* (The Hague, 1905), pp. 42–3, 72, 78.

raised with the issue of a new book of rates in the same year.[1] The crown in its ever more desperate search for money also intensified at this time the old policies of prohibition and licence. It is not unreasonable to suppose that if the abolition of restraints and duties made an end of the smugglers' trade in the nineteenth century, then their notable intensification may have supplied it with a significant stimulus in the sixteenth.

With these pointers in our minds, let us now turn to examine briefly the methods and difficulties of the later Tudor customs administration. Since a prime aim of the smugglers was to leave as few traces as possible of their traffic, the historian in his search for evidence is forced back upon such records of the government as may throw light on its efforts to damp down illicit trade.

II

Although it is formally true that by the middle of the sixteenth century the kingdom possessed something that might be called a customs system, in the sense that there were officials answerable to the government for the surveillance of trade and the collection of taxes at more or less every port of consequence, yet they were not part of any uniform service and it would be unfair to judge their efficiency or probity by standards that won acceptance only centuries later. From the highest level downwards, all offices under the crown were traditionally places of profit; their occupants in the Tudor period normally felt no scruples in making what they could. Elizabeth was always short of money and in its stead she often awarded important posts to her favourites or to others whom she wished to enrich, the understanding being that they might profit by the fees and perquisites attached to the appointment.[2] Or offices were sold—sometimes directly by the crown, more often through the medium of those high in favour at court. No doubt the poverty of the government made this traffic in offices inevitable in England, but it should be emphasized that it was a common feature of administration at this time all over Christendom. It reached a particularly high pitch in France,

[1] Cf. N. S. B. Gras, 'Tudor "books of rates": a chapter in the history of the English customs', *Quarterly Journal of Economics*, xxvi (1911–12).

[2] Cf. the observations of Sir Robert Naunton, quoted by Scott, *Joint-stock companies*, iii. 498.

where it was systematized and contributed, among other things, to the emergence of a peculiar hereditary class of office-holders.

Many illustrations might be offered of how the practice of selling offices permeated the customs administration in Tudor England. In the fifteen-forties, for instance, the principal searcher of the port of London sold the office of under-searcher there for forty pounds; the buyer subsequently alleged that part of the bargain was that the number of under-searchers should at the same time be reduced from five to four. It is unexpected to learn that this should have been stipulated at a time when the volume of trade had never been so great. In the event, the principal searcher did appoint a fifth under-searcher, upon which the aggrieved purchaser took an action against him in chancery.[1] The duke of Norfolk in his capacity of lord treasurer counted it as a virtue in 1540 that he had never taken bribes for the appointment of customs officials, though all his predecessors had done so.[2] There is plenty of evidence of the sale of lesser customs jobs later in the century—a deputy searchership at Blakeney in Norfolk, for instance, was sold in the middle of the reign of Elizabeth for ten pounds[3] and a decayed merchant at about the same time had to borrow heavily from his friends to secure a deputy waitership at Bristol,[4] where a little later another applicant was ready to pay the lord treasurer a hundred angels for a customer's place.[5] It would in fact appear that payment was expected even if the suitor for office were backed by some effective recommendation, from, for instance, the local town authorities or some powerful courtier. Towards the close of the century, Burghley and his henchmen Billingsley and Carmarden scrutinized the credentials of candidates more carefully, especially in view of the amount of political detective work that was being thrust increasingly upon customs officials, and even tried to stamp out the purchase of places, though without much success; this care was applied especially at the port of London where, as will be seen,

[1] P.R.O., Early Chancery Proceedings, 1137/23.

[2] *Letters and Papers of the reign of Henry VIII*, xvi, no. 169.

[3] *The official papers of Sir Nathanial Bacon of Stiffkey, Norfolk*, ed. H. W. Saunders, Camden 3rd Ser., xxvi, (1915), p. 42.

[4] P.R.O., State Papers Domestic, Elizabeth, 247/24.

[5] S.P. Dom., Eliz., 245/9.

administrative standards later tended to be somewhat higher than elsewhere.

But although the customs officer thus normally had to part with money in order to secure his appointment, his official stipend was meagre and the authorized fees small. The crown in sixteenth-century England was usually far too hard pressed for it to be possible to pay a salary sufficient to encourage among tax collectors some *esprit de corps*, let alone a sense of exactitude and impartiality. In the absence of a customs service, each official tended to work independently in his own little groove, with little heed for the business of his colleagues. At the port of London, the crown in the reign of Elizabeth gave neither fee nor allowance to the searchers, and the fees of the waiters, who assessed goods for export taxes, amounted per annum to less than four pounds.[1] It is not surprising to find that as the sixteenth century advanced, the customs employee was increasingly prone to make use of his privileged position to make more money, to wink at breaches of the law, to exact unauthorized fees, to join in dubious partnerships to defraud the crown and to engage himself in illicit commerce. In the outports especially, the less profitable of his tasks were liable to be left for discharge by ignorant and venal underlings, his substitutes or deputies in the local custom house. The pressure on him to exploit irregular openings can hardly fail to have increased greatly with the price revolution and the rapid rise in the cost of living during the later years of the reign of Henry VIII. Then with the commercial crisis of the early fifties, trade became a much more opportunist and individual affair and it must have become very tempting for those in the know to dabble in shady sea-going adventures here and there, particularly at London.[2] It is to be remembered that many, perhaps most, of the higher customs officials were in any case merchants by career, and while in office they did not cease to snatch at profits when they could.[3] Such at least is the picture suggested by the available evidence.

[1] S.P. Dom., Eliz., 151/6, f. 11d. A list of Elizabethan customs officials. with their fees, &c., is printed by F. Peck, *Desiderata Curiosa* (1779), i. 54,

[2] As far as the general development of commerce is concerned, the valuable article of F. J. Fisher, 'Commercial trends and policy in sixteenth-century England', *Econ. Hist. Rev.*, x (1939–40), has been followed.

[3] Cf. e.g. S.P. Dom., Eliz., 13/49 and 50.

It does not appear that during the reign of Henry VIII the state of the customs administration gave serious cause for concern to the government, though Thomas Cromwell seems on more than one occasion to have meditated some far-reaching reforms.[1] His agents two or three times informed him of irregular shipments of cloth to Antwerp or of the smuggling of corn, dairy produce and tin to Spain,[2] and a scheme for tightening up the working of the customs was actually formulated in 1536[3]; but the only interference with the staffing of the administration traceable to his period of high office was the appointment in the same year of an extra official to inspect the work of the common packer at the port of London, who was alleged to be acting in collusion with the merchants.[4] It is illuminating to learn that when in 1540, shortly after the fall of Cromwell, a couple of informers offered warning to the government of how almost all the officers of the customs were guilty of 'veary notable misdemeanors and exceding great deceiptes' in the discharge of their duties, the lord treasurer and the privy council were at one in expressing their amazement at such a charge against those who 'as yet hitherto have been taken for honest men'[5]. Evidently the years of strain still lay in the future.

They were, however, not far ahead. The whole problem of how to collect the ever more burdensome customs at the ports fairly emerged after the middle of the century, for the general reasons that have already been mentioned. The lord treasurer in these difficult years was the first marquis of Winchester, an old servant of the Tudor dynasty who con inued through all the political and religious vicissitudes of the fifties and sixties to hold office until his death at an advanced age in 1572. Winchester was very well aware of the growing administrative difficulties involved in the levying of the customs and made some attempt to grapple with them. Although it would be out of place here to enumerate his reforms, which were considerable, it is important to note how in

[1] *L.P. Hen. VIII*, vi, no. 299, x; vii, no. 923, xviii and xl; ix, no. 1073.
[2] *Ibid.*, xi, no. 239; xiii, pt. ii, no. 429; xiv, pt. i. no. 573.
[3] *Ibid.*, xi, no. 1433; cf. Gras, 'Tudor "books of rates" ', *Quarterly Journal of Economics*, xxvi. 767–8.
[4] *L.P. Hen. VIII*, xi, no. 519/7.
[5] *Ibid.*, xvi, no. 147; *Proceedings and ordinances of the privy council of England, 1386–1542*, ed. N. H. Nicholas (1837), vii. 60–1, 78.

these years the increasing boldness of smugglers more than once left its mark in the statute book, the language of which suggests that they were out-pacing the government. In the words of the well-known 'act of frauds' passed by the first parliament of Elizabeth, there had been 'of late years' an unprecedented evasion of the customs by 'many greedy and covetous persons, to the great loss and damage' of the crown, and this statute, a main legislative prop of Winchester's administration, among other things forbade the landing or freighting of goods save by day and at places where there was a resident customs officer.[1] In other statutes of the period the hand of the lord treasurer is also to be suspected; in one, for instance, passed in 1554, increasing the penalties for illicit export of corn, timber and provisions,[2] and in another enacted in 1566 that prescribed the ferocious penalty of forfeiture of all goods, a year's imprisonment and the cutting off of the left hand for smuggling sheep or lambs abroad.[3]

It was, of course, one thing to enact a statute and quite another to enforce it, and there is no lack of evidence as to the widespread evasion of the customs during the twenty-two years of Winchester's lord treasurership. The western coast north of the Bristol Channel was especially ill-guarded, for only at the estuaries of the Dee and the Mersey were there any custom houses; indeed, so localized was the collection of levies there that as late as 1539 the city of Chester had been struggling for the maintenance of a special exemption,[4] and Leland had noted that merchants were drawn to Liverpool because of the 'small customs' paid there.[5] Efforts to set up customs stations at Chepstow and elsewhere in South Wales to prevent the merchants of Bristol from landing their goods on this unguarded coast were resisted in 1561 under colour of the local privileges of lords Pembroke and Worcester—the first brushes in the long struggle of Welshmen and royal officials in this traditional haunt of smugglers.[6] As to the east coast, there must have been many like the Colchester merchant who was

[1] 1 Eliz., cap. 11. Cf. S. Dowell, *History of taxation and taxes in England*, 2nd ed. (1888), i. 165–7.

[2] 1 & 2 P. & M., cap. 5. [3] 8 Eliz., cap. 3.

[4] *L.P. Hen. VIII*, xiv, pt. i, no. 175.

[5] J. Leland, *Itinerary*, ed. L. Toulmin Smith (1910), v. 41.

[6] S.P. Dom., Eliz., 19/9; J. W. Dawson, *Commerce and customs. A history of the ports of Newport and Caerleon* (Newport (Mon.), 1932), pp. 26–38.

reported early in the reign of Elizabeth to be shipping cloths to Flanders while pretending to send them by sea to London, and there was certainly a continual leakage of grain, wool, cloth, lead and other goods to the Netherlands at this time[1]; as early as 1556 the government was informed of how many thousands of kersies and other fabrics were being smuggled every year to Antwerp without paying tax.[2] The customer of Sandwich and Dover reported a few weeks after the accession of Elizabeth how 'divers merchants of London' were hiring a couple of 'small barkes' to transport from Dunkirk 'cases of silks, cloth of gold and other merchandyse to no small vallew' that were then landed secretly.[3] There was a perpetual owling of wool and other goods from Sussex to France[4]—it never seems to have been possible to do more than make it risky. In sum, there was a furtive and illicit trade flourishing all along the coast beyond possibility of suppression.

The situation at the port of London, where most of the customs revenue of the kingdom was now gathered, was particularly unsatisfactory. The volume of traffic there had probably more than doubled since the beginning of the century and the size of ships was also on the increase, but the customs organization had hardly been adjusted to the recent remarkable developments in trade. The congestion was so great that many ships could not be accommodated at the appointed wharf and were laden and unladen 'at so many sondrey keys, wharffes and other places where yt pleaseth the merchaunt to the moste advauntage for his purpose'.[5] In any case, only the smaller vessels could gain access to the wharves and cranes when the tide was out, so that much freighting and unloading had to be done by means of lighters, with all the scope that this gave for further deceit and evasion.[6] Ashore, the medieval custom house was wholly inadequate and the fiscal offices were

[1] S.P. Dom., Eliz., 33/35; evidence from the Exchequer K.R. Memoranda Rolls is printed by H. J. Smit, *Bronnen tot de geschiedenis van de nederlandsche handel met Engeland, Schotland en Ierland* (The Hague, 1950), ii, pt. II, nos. 1012, 1020, 1032, 1033, 1056, &c.

[2] S.P. Dom., Mary, 9/72.

[3] P. Dom., Eliz., 1/40, &c.

[4] S.P. Dom., Eliz., 35/1, 91/31, &c.

[5] There is much information about the malpractices at the port of London in S.P. Dom., Eliz., 151/6, ff. 7–20. The quotation is from another anonymous paper of the same type, Brit. Mus., MS. Lansd. 41/19.

[6] MS. Lansd. 41/21.

scattered in neighbouring houses hired to shelter them.[1] The maintenance of accounts was far from regular and the various clerks seem to have kept their books higgledy-piggledy in odd corners wherever there was room for a table and seat.[2] The customs officers and their underlings kept short and irregular hours and had their homes at inconveniently distant places, which was apt to prove a matter of serious concern to the master of a ship anxious to secure his clearance and sail while a favourable wind lasted.[3] It is not surprising that informers should have indicated how the customs administration at London was soaked in malpractices, but it was not until Burghley had succeeded to the lord treasurership in 1572 that an effective effort was made to reform it and a more adequate custom house was built.

III

The problem for the government was thus rendered all the more intractable by reason of the carelessness and still more the complicity of the customs officials. An Englishman at Middleburg in 1565 remarked upon 'the marvellous quantity of corn that cometh out of England into these quarters and specially out of Norfolk . . . if it be without licence and all stolen out, ye may be sure the customers and other that sort of officers be privy to it'[4]; along the south coast too the customs officials were often suspected of conniving at the evasion of taxes. A number of dishonest or untrustworthy men were 'removed from their offices and fined' in the sixties,[5] but there remained the problem of finding recruits who should be both honest and able. It was especially pressing at the port of London, where the enticements to fraud were greatest by far. At the accession of Elizabeth, a petition of the 'merchant strangers' of London to the privy council set forth the most serious charges against the probity of the customs officers, stating that they engaged in trade through private hirelings, making use

[1] MS. Lansd. 41/20. [2] MS. Lansd. 41/54. [3] *Ibid.*

[4] S.P. Dom., Eliz., 37/31, printed by Smit, *Bronnen tot de geschiedenis van de nederlandsche handel met Engeland*, ii, pt. II, 914–15. The surmise was soon verified; cf. N. J. Williams, 'Francis Shaxton and the Elizabethan Port Books', *Eng. Hist. Rev.*, lxvi (1951), pp. 387–95.

[5] S.P. Dom., Eliz., 40/48. Instances of prosecution are to be found among the Exchequer Special Commissions and Depositions by Commission calendared in the *Thirty-eighth Report of the Deputy Keeper of the Public Records* (1877), *passim.*

of their special opportunities both to elude payment of duties themselves and also to intimidate foreigners into one-sided bargains. In support of these allegations, they cogently pointed out how customers while in office visibly amassed inordinate wealth—even as their very clerks who on starting their employment 'were not able to have (your honours not offended) so much as a pair of hosen to their loins' were now 'within eleven or twelve years worth thousands'.[1] At the same time Sir Francis Englefield, surveyor general at the port of London, privately warned Cecil to exercise great caution in making new appointments, mentioning that he had had 'some experience of the differences of men's service there'.[2]

There is in fact strong reason to suspect that early in the reign of Elizabeth the crown was being systematically cheated of some of the revenue it should have drawn from the port of London. Apart from the delinquencies of the underlings, the chief customs officers here certainly included some sharp-witted men on the make who, as subsequent events were to show, were not likely to be deterred by any fine scruples from lining their own pockets. Foremost among them was William Byrde, collector of the petty custom, i.e. of most of the export duties, including those which so recently as 1558 had been laid upon cloth and which were a major item in the crown revenue drawn from the customs.[3] Byrde was a well-known City figure, a merchant adventurer himself and also a member of the powerful Mercers' Company, of which he was warden in 1564, four years after his customs appointment.[4] As might be expected, he was a man of sufficient standing to be financially serviceable to the government outside his official duties; in 1562 he was licensed together with his colleague Thomas Smythe, one of the collectors of import duties, to raise a short-term loan for the crown at an unspecified rate of interest, no doubt higher than that legally permissible.[5] The irregular dealing of Byrde and others with the merchants can

[1] *H.M.C. Lord Salisbury*, i. 148. [2] S.P. Dom., Eliz., 1/21.

[3] A list of the chief customs officers of the kingdom at this time is to be found in MS. Lansd. 41/44.

[4] Cf. the references to Byrde in J. Watney, *Some account of the hospital of St. Thomas of Acon, in the Cheap, London, and of the plate of the Mercers' Company* (London, 1892), pp. 191–2.

[5] *Cal. Pat. Rolls, 1560–3*, 266, 273.

hardly have been very secret, and they were denounced more than once to Winchester by at least one government servant, by name Richard Carmarden.[1] The aged lord treasurer, however, possibly shrinking from a conflict with the mercantile interests involved, long closed his eyes to some of the malpractices at the London custom house.

Eventually, perhaps in part as a result of the representations of Carmarden, letters patent for an investigation were issued in August 1570 to Oliver Dawbenye, a henchman of Cecil, who in turn included the informer among his agents.[2] The enquiry involved malversations at all levels and lasted for a couple of years, at an alleged cost of several thousand pounds. Various officials, from Smythe downward, were entangled in legal proceedings,[3] but it proved possible to bring Byrde himself to book for failing to collect export dues on no more than a paltry few hundred cloths. Carmarden, however, in his private letters to Burghley, expressed the belief that his frauds had been extensive though well covered and that they involved up to twenty-seven thousand cloths in a year.[4] The prosecution of Byrde took place not in the Exchequer, the normal court for revenue suits, but in the Queen's Bench, and a verdict was secured against the defendant for concealment of customs on about half the number of cloths alleged. At this point the government suddenly intervened, ordering a stay of judgment and remitting the case to a small committee comprising representatives of both parties; it was tactfully agreed that the discrepancies in the accounts were due to the carelessness of the clerk employed by Byrde, who paid a fine for his negligence in supervising him, and the whole matter was then closed. Burghley, who had now succeeded Winchester as lord treasurer, was undoubtedly prudent in not pursuing the affair. Byrde and his accomplices had been thoroughly frightened by the possibility that the full extent of their depredations might be brought

[1] MS. Lansd. 41/41.

[2] The appointment of Dawbenye is to be found on Patent Roll no. 1062, mm. 29–31, and is dated 21 August, 12 Eliz. I owe this reference to Mr. N. J. Williams.

[3] I am further indebted to the kindness of Mr. N. J. Williams for information of entries in the Exchequer K.R. Memoranda Rolls bearing on this.

[4] MS. Lansd. 14/40. Perhaps this sort of thing may help to explain some of the fluctuations in customs revenue; cf. Scott, *Joint-stock companies*, iii. 494.

to light; they had vainly attempted to bribe the investigators and had doubtless been otherwise pulling strings. They assuredly had strong interests on their side. Byrde himself was again in the following year elected warden of the Mercers' Company, to which he then presented two valuable pieces of plate. He survived to be master of the Company in 1588.[1]

It is tempting to regard the prosecution of Byrde as a rehearsal for the later struggle of crown and merchants over the levying of increased customs dues. But Burghley was too cautious to permit the raising of such an issue; what the government needed was, after all, not the conviction of a dishonest merchant or official but the assurance of a steady income from the increasing trade of the capital. The punishment of a few miscreants was not worth the hostility of the mercantile world of London. This must have been an argument of all the more weight in view of the new direction in customs administration towards which the crown had been moving. It had for some years been apparent that the intensified checking, inspection and centralization was yielding poor fruit, and from at least 1566 the government had been toying with alternative methods. In August that year the queen had written to Winchester pointing out how, despite the purging of the ranks of the customs officers, there was a great increase in 'the decept of some, the corruption of others and the negligence of the rest', and that the solution suggested by the example of 'other princes in like causes' was 'to grant our Customs to farme so as there be sufficient persons that have offered to take them'.[2] The way thus lay open for the rise of the large-scale customs farmer, a personage who was to cut an intermittent and questionable figure in fiscal history for a century.

The government took the course of farming the customs gradually and reluctantly. It never wholly committed itself to this policy before the advent of James I, and during the reign of Elizabeth its method simply was to lease piecemeal to an individual or syndicate for a term of years the duties to be raised at specific harbours on certain imports or exports; some im-

[1]. A formal version of the proceedings against Byrde is printed by J. Watney, *Some account of the hospital of St. John*, pp. 302–7. Numerous letters of Carmarden and others in connection with the case are scattered among the State Papers Domestic and also among the Lansdowne MSS.

[2] S.P. Dom., Eliz., 40/48.

portant branches of the revenue, including the export duties levied at London, it retained in its own hands before the seventeenth century. No doubt the calculation was that the farmer with an eye to his own profit would keep a closer watch on the exaction of duties than a salaried or fee'd official. But there was also the further point that the evasion of payment was no longer confined to small surreptitious acts here and there but was becoming a conspiracy well organized and with the connivance of powerful financial interests. The farmer would, it was hoped, put a narrower limit to petty evasions, but there must have been more than a suspicion that he would come to terms with the big offenders—acting in the last resort as a kind of buffer between the great merchants and the crown. The most prominent individual thrown up by the partial adoption of the principle of farming by the crown was Byrde's former colleague Thomas Smythe—'Mr. Customer Smythe' as he was called to distinguish him from various namesakes—a sharp and shady personage of whom much may be suspected though little proven. During the seventies and eighties a succession of leases gave him the right to collect the import taxes at London and the adjacent ports; he was an acute man of business and did much to reform the levying of duties, and even on his own showing he did very nicely out of his contracts with the government. In actual fact, he probably did a good deal better, for there was strong circumstantial evidence to suggest that he falsified his accounts.[1] He certainly became one of the wealthiest men of his generation and richly endowed his family.

Mr. Customer Smythe, as one of the chief officials at the port of London, must have known very thoroughly both the difficulties and the opportunities of farming the customs when he accepted his first lease. So doubtless did his colleagues; some may have been squared, but there were dissentient voices. The obvious imprudence of encouraging a farmer to make a fortune at the expense of the crown was very apparent to Carmarden, who had already denounced Smythe to the privy council in 1565, and who

[1] Some telling evidence is set forth in S.P. Dom., Eliz., 239/67. It is perhaps not wholly irrelevant to point out that in contemporary France the customs farmer might expect to keep for himself at least as much as he handed over to the crown: R. Collier and J. Billioud, *Histoire du commerce de Marseille de 1480 à 1599* (1951), pp. 541–3.

now in a forlorn attempt to persuade the queen to change her mind came forward with a small treatise finely penned, and bound in a style suitable for royalty. In this he forcefully made the point that the very delegation of the customs to farm was in itself a confession of administrative failure. Smythe, he alleged, had laid the foundations of his fortune by embezzling some fifteen hundred pounds soon after the accession of the queen and was at the centre of what amounted to a gigantic plot to rob the crown of its customs revenue; its ramifications extended from the waterside to the exchequer, where Thomas Fanshaw, queen's remembrancer, was in the pay of Smythe—he was later to marry his daughter—and even to the privy council, where Carmarden hinted that Smythe had his confederates too. He asked the by now familiar but none the less cogent question as to how it was that of late years the customs officials and their clerks had risen to affluence and had allies at court. The treatise, however, misfired, and not until 1582 did Carmarden have the opportunity of presenting it to the queen.[1] Meanwhile Burghley must have had more than an inkling of what was afoot but was not willing to interfere—the device of farming retained its simple but great convenience of affording the crown a fixed revenue without estranging the City. It was assured of a reasonable quota of the customs intake each year. Each time that Smythe's farm was renewed his rent was raised, and considerable efforts were made to induce him to change his mind when in 1589 he finally refused to take out another lease.

In the following year there died Sir Francis Walsingham, to whom the customs of the outports had for some years been in farm, and for the last decade of the century the experiment of direct administration by the crown was again tried. The ever-mounting expenses of the Spanish war no doubt made it imperative for the government to extract all it could from the customs, its only elastic source of revenue. At London a further considerable effort at reform had been made in the eighties, a new set of regulations being framed and the pay of the waiters increased so that they might be able to live on their wages instead

[1] This sumptuous little volume is now in a private library in America. The text of the treatise has been printed by J. U. Nef, 'Richard Carmarden's "A caveat for the Quene" (1570)', *Journal of Political Economy*, xli (1933). I am indebted to Mr. F. E. Leese for bringing this document to my attention. Cf. also S.P. Dom., Eliz., Addenda, 21/118.

of engaging in dubious transactions to supplement them.[1] During the nineties, the chief customer there was alderman Henry Billingsley, a respected overseer, with old Carmarden to the fore as surveyor; their underlings were appointed after personal consideration by Burghley and proved sticklers for obedience to regulations, as some German merchants who had been granted permission to export ordnance found in 1594.[2] Whatever the flaws in the customs administration under the eye of the government at London may have been, the duties were probably at this time more effectively levied there than elsewhere, and it is not surprising to learn that merchants in 1591 were dispatching a great quantity of cloths and other goods bought in London to adjacent outports, where they got away with slight payments.[3] The customs administration of the outports had been put under the inspection of three surveyors-general, working from London, but it does not appear that the operations of the smuggler were at all less ubiquitous than they had been a generation earlier.[4]

In the west, the fishermen of Devon and Cornwall were reported in 1591 to be accepting payment for the supply of provisions to the enemy—pilchards and Somersetshire butter were mentioned—and it was even alleged that Hamburgers were taking up a trade with Bristol chiefly to smuggle aboard pieces of ordnance cast in South Wales (perhaps the Forest of Dean was meant) which also were then sold to the Spaniards.[5] An agent sent by Burghley across the Channel, primarily to spy upon the political suspects who were believed to be planning to return, sent a number of reports of the way in which the ancient and well-organized owling of wool, leather, corn and even of live cattle, horses and sheep from Kent and Sussex had recently been encouraged by the high prices paid in Normandy, and he further mentioned that the customs officers of Rye in particular were believed to connive at this illicit traffic.[6] There were, of course, widespread petty deceits in the export of cloth,[7] and it was plausibly suggested to Burghley that the revenue would gain by a reduction in the export duty payable on textiles.[8] Even at the

[1] S.P. Dom., Eliz., 173/31 and 69, and 175/56. [2] *Ibid.*, 249/5.
[3] *Ibid.*, 239/81; MS. Lansd. 44/41 and 110/56.
[4] Cf. MS. Lansd. 63/7. [5] S.P. Dom., Eliz., 239/92.
[6] *Ibid.*, 246/6 and 16, 248/79 and 80.
[7] *Ibid.*, 243/114, 250/47 and 79. [8] *Ibid.*, 247/14.

capital, there were limits to the efficiency of Billingsley and Carmarden, for when on one occasion in December 1594 the searcher of Ipswich inspected the cargo of some shipping bound from London to Hamburg that had put in at Harwich, it was found to consist of merchandise on which duty had not been paid and which was accordingly detained. The sequel was illuminating —the searcher for his pains was threatened with legal action and worse by the owners of the goods, who were stated to be men of great wealth, and he had to apply to the lord treasurer for support in his detention of the contraband.[1] The rude nature of the customs official's duties might be further illustrated by recalling that it had been at Harwich, only a few months earlier, that there had occurred a violent scene when one of the searcher's deputies in the performance of his duties had been cast overboard from a ship.[2]

IV

The extensive smuggling abroad of tin deserves closer attention. English tin was as widely prized in the sixteenth century A.D. as it had been two thousand years earlier when the Phoenicians had sailed into the Atlantic to fetch it.[3] It was mined in the remote south-west of the kingdom and mostly in Cornwall, notorious for long as a county second to none in the smuggling trade. Some three-quarters of the total output was believed to be sent abroad.[4] There had long been a convenient market for Cornish tin in France, centring on Lyons; it was much used by craftsmen in Dauphiné[5] and was also re-exported via Marseilles to other Mediterranean ports.[6] Towards the end of the reign of Elizabeth the chief destinations of tin legitimately exported lay in Italy and the Ottoman dominions, if already worked, and in Holland if still unworked[7]—the Dutch had a superior technique in the working

[1] *H.M.C. Lord Salisbury*, v. 49. [2] *Ibid.*, iv. 570.

[3] There is a competent account of the tin mines of Devon and Cornwall by G. R. Lewis, *The Stannaries: a study of the English tin miner* (Cambridge, Mass., 1908). The trade in tin still awaits its historian, though for the sixteenth century valuable information is given by F. Braudel, *La Méditerranée et le monde méditerranéen à l'époque de Philippe II* (1949).

[4] *H.M.C. Lord Salisbury*, v. 137. [5] S.P. Dom., Eliz., 243/113.

[6] Collier and Billioud, *Histoire du commerce de Marseille de 1480 à 1599*, pp. 518–19, 539.

[7] Cf. e.g. Exchequer K.R. Port Book, 10/11, *passim*.

of metals and no doubt re-exported most of their tin. The internal market for tin had long been at London, where it had traditionally been in the hands of the pewterers. But in the later sixteenth century the large foreign demand, coupled with the heavy cost of sinking and maintaining mines, had led to the domination of the tin trade by a small number of wealthy capitalists, whose investments and loans to the miners had put the industry under their thumb.[1] By the fifteen-nineties, the export of tin from London had passed into the control of a small group of Levant merchants and others, together with a handful of foreigners.[2]

There is, however, good reason to suspect that much of the tin exported at this time was neither shipped from London nor entered in the customs records. It was one thing to collect the duties on tin laden at the capital, but quite another to levy a tax in Cornwall, where the long coastline and the numerous coves and beaches offered every advantage to the smuggler. To make things even more difficult for the crown, the tin was normally conveyed to London from Cornwall in small coasting ships, which had plenty of opportunity for diverting cargo *en route* to France or the Netherlands; it was presumably such craft that supplied the tin that was at this time finding its way in Breton vessels taking Newfoundland cod to Marseilles and doubtless other Mediterranean ports.[3] Very little tin was honestly exported from Cornwall or Devon—the crown in the twelve months ending at Michaelmas 1593 received only some twenty-eight pounds odd in export duties levied at the outports, so rampant was the lawbreaking.[4] The English monarchy had for centuries been alive to the possibilities of drawing a profit from the various stages of the tin industry: there was a tax on tin at its coining, i.e. on smelting; the crown further claimed, though since the reign of Edward VI it had not exercised, a right of pre-emption, of interposing itself between miner and merchants, for re-selling to the latter at a profit; and thirdly there was an export duty. But the abuses in the collection of revenue from the tin industry were long-standing when in the early nineties the lord treasurer seriously set himself to investigate the matter, and a remedy was not easy to find.

[1] MS. Lansd. 86/67. [2] Their names are listed in MS. Lansd. 86/69.
[3] Collier and Billioud, *op. cit.*, p. 518.
[4] *H.M.C. Lord Salisbury*, iv. 379; v. 137.

Any attempt to squeeze more money from the coinage duty would necessarily be fraught with difficulty, since smelting was a small-scale operation and carried on in scattered places. A much simpler device was to enforce once more the royal right of pre-emption, which was financially equivalent to a levy on the well-to-do London merchants who ran the trade and which they could well afford to pay; if this were effectively applied on the coinage days, it would in turn ease the collection of the export tax. A number of parties hoped to seize some advantage from the prospective intervention of the government in the tin trade. The miners sought for better terms and for some loosening of their dependence on the City capitalists and their allegedly oppressive agents.[1] The working pewterers of London looked for a diminution in the export of unworked tin, which they claimed to be driving some of their number out of business.[2] Even the Levant merchants, it may be assumed, were ready to welcome action that would put legitimate trade on a fair footing by damping down the business of the Cornish smugglers.[3] The matter must have been in the mind of the lord treasurer for a number of years; for some time little was done, however, though a monopoly licence for the export of tin from the western ports was granted in 1591 to a minor court official about whose activities evidence is lacking.[4]

Some three years later, old Carmarden intervened with a scheme of his own. He was well aware of the powerful interests that lay behind the illicit traffic in Cornish tin and felt himself too weak to brave unaided their obstruction and anger. And so in the winter of 1594–5 he succeeded in persuading a great nobleman to take up the matter—with the incentive, of course, of large profits for his pains. This might conceivably have proved a skilful step, had Carmarden but chosen his man well. Unfortunately, he enlisted as his figurehead a most incongruous personage in the shape of Edward de Vere, seventeenth earl of Oxford, an extravagant aristocrat who had already run through a fortune and whose first wife had been a daughter of Burghley, to whom he had been by no means a satisfactory son-in-law. Carmarden's plan was for

[1] S.P. Dom., Eliz., 243/113. [2] MS. Lansd. 86/71.
[3] Cf. MS. Lansd. 86/69.
[4] S.P. Dom., Eliz., 240/57. It was still valid in 1598: *Cal. S.P. Dom. 1598–1601*, p. 65.

Oxford to buy through the lord treasurer from the crown a monopoly licence for the export of tin. The project involved not only a much closer watch at the ports to prevent illicit shipments but also a manipulation of the foreign market; it was hoped to raise the price of tin in the Mediterranean by restraining legitimate export as well as by curbing the 'great store' of tin regularly smuggled to Rouen and elsewhere.[1] At London, a number of interested persons, including Richard Staper and other Levant merchants, were ready to back the scheme, thus giving the crown some assurance that the purchase price of the monopoly would be forthcoming.[2]

The whole design, however, came to nothing, owing to the operation of forces that in the last resort can only be guessed. Oxford, with Carmarden at his elbow, had no difficulty in pointing out to Burghley the wholesale evasion of customs duties in the shipping of tin from the west country; it was no doubt all too well known to the lord treasurer. But unsuspected and insurmountable snags soon appeared when the project was broached among the privy councillors. There was opposition from several, and in particular from lord Buckhurst, a cousin of the queen and one of her most trusted advisers. Oxford was soon complaining that Buckhurst had dealt with him 'very strangely and otherwise than I would have expected',[3] and after a few days Staper and the other exporters withdrew their support: 'his merchants have gone back', was Burghley's dry comment on this.[4] What caused the sudden revulsion is not indicated. No doubt so discredited a personage as Oxford can hardly have commanded much confidence, but it may be wondered whether Carmarden would have had any better success with a more weighty patron. He himself quickly tried on the collapse of this plan to rebuild the scheme around Buckhurst,[5] but nothing would seem to have come of this. There is no evidence that any smuggling interest intervened, while it is tempting to suspect it; indeed it is impossible to name the persons who may have been interested in the illicit export of tin from Cornwall, though it may be more than a coincidence that among the rich men who sank money in the Cornish mining industry was Mr. Customer Smythe—and possibly also his erst-

[1] *H.M.C. Lord Salisbury*, v. 137–8.
[2] *Ibid.*, v. 162.
[3] *Ibid.*, v. 157.
[4] *Ibid.*, v. 166.
[5] S.P. Dom., Eliz., 252/49 and 57.

while colleague William Byrde.[1] Two facts remain clear—first, that Buckhurst had some personal connection with the tin trade, illustrated further by his own subsequent efforts to secure the farm of the tin duties,[2] and second, that the smuggling of tin from Cornwall continued with little or no check in the seventeenth century.

This episode in the history of the tin trade helps to explain among other things how the rivalry and covetousness of leading privy councillors could at the end of the sixteenth century add to the difficulty of putting down illicit commerce—apart from a possibility of some occult interference by the smuggling interest itself. There are indications also that the members of the government at this period were becoming less rather than more squeamish in their attitude to personal gain. After the death of Burghley in 1598, the new lord treasurer was none other than Buckhurst, soon to receive promotion as earl of Dorset, and the strings of government passed mostly through the hands of Sir Robert Cecil, who showed himself less restrained than his father in snatching a profit from his official connections. The crown now moved again towards compromise with the commercial magnates by reverting to the system of farming the customs. Cecil played a prominent and highly remunerative part in the jostlings of the various financial syndicates that offered bids for new farms and in the alignments that led up to the conclusion of the contract for the great farm of the customs in 1605. During the negotiations for the latter he was in close touch with Arthur Ingram, a remarkable sharper who in the early part of his career was, like Mr. Customer Smythe, an official in the customs and whose exploits in customs farming were to rival if not outdo those of his predecessor.[3] The dubious and insincere partnership of crown and City financiers endured down to the great rebellion and was even resumed for a few years at the Restoration, but of the attempts of the government to get to grips with the smuggler in the later seventeenth century this is not the place to treat.

[1] The correspondence of Smythe and his partners and agents in Cornwall is scattered among the State Papers Domestic of the eighties. The name of 'Mr. Burd' crops up in S.P.D. Eliz., 163/46.

[2] Some charges against Buckhurst that included deceits in the tin trade were made by 'certain bold fellows' in 1602: S.P. Dom., Eliz., 283/6 and 7.

[3] Ingram was one of the signatories to a letter from the waiters at the port of London to Burghley: MS. Lansd. 66/18.

V

The connections between large-scale smuggling and the broad patterns of government and society have now to some extent, it may be hoped, been indicated. The organizers of systematic smuggling were almost always able to cover up their tracks, so that to discuss their traffic during the reign of Elizabeth it has been necessary to focus attention mainly upon the fumblings of the government to increase the efficiency of its customs net. But although it is possible to discern little more than the shadow of the big smugglers and their confederates, there can be no doubt that it was a large and deepening shadow. The crown probably did well, by dint of revising the tariff rates and scrutinizing the conduct of its officials, to extract at least as much revenue from import and export taxes at the end as at the beginning of the reign. The problem was, of course, all the more pressing since the yield of the hereditary lands was diminishing, so that by the time of James I the crown was actually deriving most of its permanent revenue from the customs[1]—a good reason for the political interest in impositions and tonnage and poundage in the reigns of the first two Stuarts.

The achievement of the Elizabethan government in managing even to maintain the money value of its customs revenue may be seen in its proper perspective by comparing it with its nearest parallel. Burghley had less success in the comparable problem of fiscal administration that confronted him in the gathering of the direct taxes voted from time to time by parliament; for various reasons, from 1566 onwards, the yield per unit of a parliamentary subsidy continuously shrank and by the end of the reign had lost approximately a third of its value. But it would be wholly erroneous to argue that the static or depressed yield of the revenues of the crown in any way indicated either that trade was no more than maintaining its level or that the riches of the kingdom were decreasing—there is, after all, no lack of evidence from other and more relevant sources as to the increasing wealth and vitality of Elizabethan England.[2] The incongruity in the size of

[1] Cf. the skeleton budget figures for 1611 listed in MS. Lansd. 165/30. As late as 1589, customs and impositions accounted for a little over a third of the ordinary revenue: Scott, *Joint-stock companies*, iii. 516.

[2] Cf. the remarks of Scott, *op. cit.*, i. 93–5. Statistics of yields are printed in iii. 526.

these royal receipts does, however, help to illustrate how the financial problem confronting the governments of Elizabeth and the early Stuarts was not merely economic, in relation to the well-being of the kingdom, or political, concerning the relationship of crown and parliament, but also administrative, involving both the efforts of merchants to elude customs duties and of landowners and townsfolk to escape the payment of direct taxes. The heightening tempo of economic change was putting an increasing strain on all fiscal machinery, and it is evident that in the stresses of the period the merchants engaged in foreign trade had a success in avoiding taxation at least comparable to that of the country gentry. Their political and constitutional position was weaker and their formal legal challenge, in the case of John Bate early in the reign of James I, met with a rebuff. But by other devices they were able to divert a great though unknown proportion of English commerce into clandestine channels.[1] For three centuries these methods were in varying measure to prove efficacious—at first against the arbitrary regime of Elizabeth and the early Stuarts and later against its successor the limited monarchy of the later seventeenth and eighteenth centuries. The significance of the smuggler was not only economic but also administrative and even constitutional.

[1] For the historian of foreign trade, the essential point to grasp is that official customs statistics relate only to revenue and are never to be equated with levels of trade. Or, to put it in a different way, that for the centuries before the nineteenth, there exist copious fiscal but virtually no commercial statistics. To treat the figures listed in the many financial memoranda of Burghley and other lord treasurers, and in the records of exchequer and custom house, as at all equivalent to trade returns and as offering direct stepping-stones for a 'statistical approach' can lead only to grave difficulties.

This in no way implies, of course, that fiscal records are valueless for the historian of commerce. Cf. the valuable case-history discussed by N. J. Williams, 'Francis Shaxton and the Elizabethan Port Books', *Eng. Hist. Rev.*, lxvi (1951), cited above.

PRESIDENTIAL ADDRESS

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STATE TRIALS UNDER RICHARD II

WITH the accession of Richard II, the political plot thickens. Crisis follows crisis, and each time there is a spectacular state trial. At times there is an air of good humour, even indulgence, in the conduct of these affairs, but as the reign proceeds they become more grim, ending in such savagery as is rare in our political history. Modern historians have contributed much new material to the study of this reign, and yet the result is not an increase of clarity; the more we learn, the more obscure the whole story becomes. There seems an unmistakable likeness between the successive crises and their accompanying state trials, and yet it is hard to define it in terms of politics. They seem to be all of them variations—one might say Enigma Variations—upon an undisclosed theme which still eludes us.

This is not the occasion to pursue that major quest. The stresses within the royal family and the convolutions of London politics must be laid aside, and Richard himself must be left in the dim light of the psychiatrist's consulting-room where Mr. Steel has put him. The much more modest object of this paper is to examine the procedure of the state trials which are so conspicuous in the reign. The principle had by now been accepted that parliament was the proper jurisdiction for the trial of eminent or official persons who were accused of misconducting public affairs. It still remained to settle the proper course of proceedings upon such occasions. The precedent in all men's minds was the great Latimer case in the Good Parliament of 1376 in which the outlines—very rough outlines—of impeachment had been hastily drawn in the heat of a moment of great political excitement. Even

in that case, however, the presence of the lawyers soon made itself felt, and during the reign of Richard II legal opinion is conspicuously invoked on all sides, and notably by the king himself in the famous questions to the judges. Violent as their proceedings often were, politicians felt the prick of a civic conscience, and were uneasy until an appearance of legality had been cast over their actions.

From Latimer's case[1] it would seem that the process of impeachment consisted of oral accusations based upon the clamour of the commons and upon the notoriety of the facts. These charges were put forward by the commons professing to act in the king's name and nominally at least in consultation with him. The demand by the commons that their charges admitted of no defence was rejected; consequently, the impeachment led to a trial in which the judges were the whole body of the lords in parliament. The trial procedure was flexible and governed by no clearly stated rules. Latimer was not formally represented by counsel, in spite of the fact that the charges against him did not amount to treason or felony, but it is clear that informally he received professional help. The proceedings took the form of alternate speeches of accusation and defence. In some of the other cases in the Good Parliament there was frequently introduced the unwritten recollection of evidence collected by the commons in the course of their preliminary investigations, and occasionally when witnesses were heard at the trial itself, they were confronted with their earlier statements.

That was as far as development had gone when the new reign opened, but the first incidents in Richard's first parliament threatened to divert procedure into other channels. Thus, two captains were arraigned by Sir Richard le Scrope (steward of the household) before all the lords at the king's command for having surrendered certain fortresses, and were sentenced to death. The commons took no part in the proceedings, and they are nowhere called impeachments in the careful record compiled, we are told, by a clerk of the crown, Geoffrey Martin.[2]

A month later in the same parliament, the lords commanded the steward of the household to put divers articles to Alice Perrers; she was allowed to call witnesses and a regular trial by

[1] Discussed in *Trans. R. Hist. Soc.*, 5th ser., i. 153–64.
[2] *Rotuli Parliamentorum*, iii. 10 (38)–12 (40).

witnesses, sworn and examined in Parliament, ensued. She was sentenced to forfeiture, having been found guilty on the articles 'contained in the same impeachment', and the record was drafted by 'Edward Brudenell, clerk of the crown assigned to do this by the clerk of the parliament'.[1]

Brudenell's language was less precise than his colleague's. Whatever the name of the procedure, it is clear that the commons took no part. The two captains were prosecuted by the steward of the household on the king's behalf, and Alice Perrers by the same steward at the command of the lords. The spectacular prosecution of Latimer by the commons must have seemed to many serious observers a very dangerous precedent with quite incalculable implications for the future. We need feel no surprise that the three state trials which opened Richard's reign all take care to say nothing of the commons, and place the conduct of the prosecution in the hands of an experienced household officer. Prudent ministers may well have felt that criminal prosecutions should be firmly controlled by, or in the name of, the king. The lords naturally clung to their vaguely judicial role.

But the commons were not to be so easily eliminated. Their exploits in 1376 were remembered, and were enrolled; the roll moreover naturally says nothing of who pulled the strings and in fact kept the proceedings firmly in hand. Besides, there were the lawyers in the background, testing and criticizing and trying to reduce it all to an orderly procedure. In Richard's second parliament they even ventured to bring proceedings in error to reverse the judgement of the first parliament on Alice Perrers with all the implications of a minute and technical scrutiny of the record.

Then there was a lull until the trial of the bishop of Norwich in 1383. This militant prelate had entered into indentures by which he undertook, in consideration of notable sums of public money, to conduct a campaign in Flanders for one year. He sailed with only a small part of the agreed army, failed to reach his objectives, received (it was said) 18,000 gold francs from the enemy, and brought back the remnant of his force in less than six months. That view of his campaign being commonly expressed among the commons, the bishop asked the king for an opportunity to clear

[1] *Ibid.*, iii. 12 (41)–14 (43). It is notable that she was to forfeit lands held by others to her use.

himself in parliament, whereupon evidence was given about the gold by the bishop's clerk, not on oath, but charged upon his allegiance.[1] This took place in parliament, the chancellor, Sir Michael de la Pole, presiding; some further evidence was heard and then the chancellor 'on the king's behalf' adjudged the bishop's body to prison until he should pay over the gold received in such peculiar circumstances. A proclamation[2] called upon all others who had received gold from the enemy to explain their conduct to the chancellor; several persons did so, and were similarly dealt with.

These proceedings might seem at first sight to have been in the nature of preliminary investigations, were it not for the fact that they concluded in judgements. They are nowhere called impeachments, and although they took place 'in parliament' the lords are not associated with them. Even the commons are only represented to have 'requested' them, and as far as the roll of parliament is concerned, it was the chancellor alone who directed affairs 'on the king's behalf'. There is one casual reference to the presence of the king (who was then sixteen), but even that is perfectly consistent with the supposition that all this took place, during the parliament, but before the council.

If that is so, there may well have been some misgivings about their propriety, and the assembled lords may well have been surprised at being left out. As for the commons, their sentiments towards the bishop were of sorrow rather than anger, and they seem never to have pressed their case; in so far as there was a prosecutor, it was the chancellor himself.

Whatever the reason, the enrollment of these proceedings is immediately followed by a further trial, introduced by the words: 'Item, Henry Bishop of Norwich was impeached in this parliament of many things, but especially of four articles shown to him by the Chancellor of England in the presence of the king himself and of my lord of Lancaster in full parliament.' Here then we have a formal 'impeachment'.[3] It merits attention on several grounds. First, the conspicuous absence of any action, or even mention, of the commons. Next, the complete control of the proceedings by

[1] *Rotuli Parliamentorum*, iii. 152 (15). Archbishop Stratford had similarly asked for a trial when he was defamed among the commons in 1340: *Trans. R. Hist. Soc.*, 4th ser., xxiv. 68.

[2] *Rot. Parl.*, iii. 153 (16).

[3] *Ibid.*, iii. 153 (18)–155 (20).

the chancellor, who throughout professes to be following the king's directions. As in the preliminaries, the prosecution is conducted by the chancellor without the slightest reference to the commons. The four articles seem at this stage to be in writing, and although they are described as 'notorious' the bishop was allowed his trial. This took the form (as before) of an altercation between the chancellor and the bishop. No evidence was heard although the bishop offered to bring it; his despatches were discussed but not produced; the trial in fact consisted entirely of alternate speeches for the prosecution and the defence. Finally, the chancellor announced that the king had heard the proceedings and had deliberated thereupon with the lords temporal and sages of his council. Their conclusion was that the defence had failed and that the bishop must be in the fine and ransom of the king.

That was not the end of the matter. Shortly afterwards, the bishop moved for a new trial, and got it, on the grounds that he had been much interrupted in his defence by captious questions, that he had got flurried, and forgot much that would have helped his defence. This astonishing indulgence of a re-trial is not easily matched in the state trials of any reign, and is singularly incongruous in that of Richard II. The enrolling clerk, who had already told the sorry story twice over, contented himself with saying that this time the defence was much as before, save for the additional matter which he now records. The chancellor then gave judgement for the third time, 'by assent of the earls, barons and other temporal lords'. Remarking that the bishop had been telling people that the peers never really assented, the chancellor reminded the bishop that this was not a matter of peerage but merely a question of contract, of a soldier who had broken the terms of his indenture with the king.[1]

That was true. The story of the gold francs corruptly received was not pursued against the bishop, but against his underlings, although he was held civilly accountable for the money. The case was in fact more suitable for the now rising court of the constable and marshal, but in view of its political importance the king seems to have allowed it to proceed as an impeachment, but a strangely attenuated impeachment. The commons took no part whatever; the lords were merely consulted as a matter of grace. On behalf of the young king, the government of the day had

[1] *Ibid.*, iii. 155 (22)–156 (23).

clearly captured the new weapon of impeachment and had openly adapted it to use as a procedure for prosecution by the crown, instead of by the commons.

The bishop's underlings were similarly dealt with, save that the lords were not consulted upon their fate—unlike the bishop they had no claims to peerage. Their defence was too curious to pass over although it is not relevant to my theme. Briefly, they protested their complete honesty in having taken the gold, not as a bribe, but as the proceeds of perfectly honest trading with the enemy in military stores; the French had received, so they alleged, very nearly the full value of their money in good horses.[1]

From that mild beginning in 1383, the pace quickens. In 1384 a demented Irish Carmelite denounced the duke of Lancaster as a traitor, but the matter never got as far as the parliament roll.[2] A much more serious affair, however, does figure on the roll of that same parliament at Salisbury. This was an attack upon the chancellor (still Sir Michael de la Pole) by John Cavendish, a London fishmonger 'first before the commune of England in their assembly in the presence of some prelates and temporal lords then and there being,[3] and afterwards before all the prelates and lords being in this parliament'. Cavendish said his life was in danger and sought sureties of the peace from the chancellor. Two earls mainprised the chancellor, and then Cavendish told his story alleging that the chancellor, through his clerk, had demanded and received a large sum of money from Cavendish to favour him in certain proceedings in the court of chancery. The favour was not forthcoming, however, and the chancellor paid for a large gift of fish and cancelled a bond which was part of the transaction. Cavendish was a thoroughly disappointed man. The chancellor made his defence 'first before the prelates and lords in parliament, and secondly before the lords and commons', with the result that the fishmonger abandoned most of his complaint. Since the chancellor was himself party, there was no escape this time, and the lords had perforce to play the role of judges; but only for a moment.[4] Finding that the defence had succeeded, the lords committed the fishmonger to the judges with power to proceed as the lords could

[1] *Rot. Parl.*, iii. 157*b*. [2] Higden, *Polychronicon*, ix. 33–40.

[3] Perhaps one of those liaison committees of lords appointed at the request of the commons which are frequent during this period.

[4] *Rot. Parl.*, iii. 168 (11)–(13).

have done if time had permitted. The judges fined him 1,000 marks for defaming the chancellor.[1]

The roll is careful not to call this an impeachment, and that is an important point; the distinction between proceedings at the suit of a private party and those at the suit of the commons, or the crown, or both, was now becoming settled.

Two years later, de la Pole, now earl of Suffolk, was indeed impeached, and with great solemnity. 'In this parliament [1386] all the commons assembled in a body with one accord came before the king, prelates and lords in the parliament chamber, grievously complaining of Michael de la Pole, earl of Suffolk, lately chancellor of England, he being there present, and accused him in an oral declaration (*par demonstrance de bouche*) as follows'. Seven articles followed, 'of all which articles the commons demand judgement in parliament.'[2] We note immediately the spectacular part of the commons, for the first time in the new reign, although their speaker is not named and no indication is given as to who conducted the prosecution on their behalf.

Suffolk began his defence by protesting at the absence of the king, and at the refusal of the lords to allow Sir Richard le Scrope, his brother-in-law and an ex-chancellor, to conduct his defence;[3] he was given leave, however, to amend his defence if necessary, as his counsel should advise. Clearly, there were lawyers very close at hand although the actual presentation of the case for the defence had perforce to be by the earl's own mouth.

The earl stated his defence to the seven articles one by one, the commons replied, demanding the judgement of parliament upon each article; the earl answered the replication of the commons and was seemingly allowed the last word. At that stage the earl was committed to the custody of the constable of England and mainprised forthwith. A long and complicated judgement followed.[4] It is not stated who delivered it, but casual phrases ascribe it to the king and lords in parliament. Clearly, a deliberate effort had been made to follow the precedent of Latimer's case of 1376. The

[1] The judges made a record (*ibid.*, 169 (15)) in common-law form convicting Cavendish of *scandalum magnatum* under 2 Ric. II, stat. 1, c. 5.

[2] *Rot. Parl.*, iii. 216 (6).

[3] *Ibid.*, iii. 216 (7); Scrope was eventually allowed to recount Suffolk's long career of public service: *ibid.*, iii. 217*a*.

[4] *Ibid.*, iii. 219 (13).

frigid tone of the record is increased by the anonymity which the draftsman imposed. The earl indeed was there and spoke, but for the rest 'the commons' are credited with long and intricate legal arguments which, seemingly, no natural tongue delivered; even the judgement is stated impersonally without any suggestion as to who pronounced it. We lose the drama, but we perceive the growing atmosphere of the plea roll, for although the record is in French, its structure and the course of proceedings can be matched by those occasional common law cases where normal pleading was inadequate and argument and counter-argument was the substance of the record. In short, the whole affair is a very lawyerly piece of work.

There followed the remarkable commission of government,[1] and then the questions to the judges.[2] Our older historians were profoundly shocked at this incident. First it seemed like an attempt to corrupt the bench, and secondly, how could such 'servile' answers come from men who were the authentic predecessors of Lord Somers, Lord Camden and the high priests of whiggery?

In truth, judges in the fourteenth century were accustomed to answering questions from the king, the council, the lords in parliament, and quite probably private persons as well. Their summonses to parliament were not yet a curious anachronism, for there was real work for them to do there. There was nothing improper in the king consulting his judges. The questions were startling, however. Not technicalities of feudal or fiscal procedure, but the most burning question of contemporary politics was laid before them: the lawfulness of the commission. To Richard II, or to someone in his intimate circle, there had come a novel thought, namely, that what seemed to be a purely political crisis might be expressed in terms of law, that the position of the monarch was itself a legal question to which lawyers must give an answer. Someone had dimly foreseen that there might be such a thing as constitutional law.

Both sides had searched for precedents. As soon as parliament had met, the king's enemies reminded him of the 'old statute' by which Edward II was believed to have been deposed; the judges, a year later, in their answers to Richard II's questions, seem to

[1] *Rot. Parl.*, iii. 221 (18); stat. 10 Ric. II, c. 1.
[2] *Ibid.*, iii. 233 (August 1387).

have been inspired by the Statute of York of 1322. At the present moment, however, it is only the eighth question which concerns us: '. . . whether the lords and commons, without the will of the king, can impeach in parliament the king's officers and justices for their delicts, or not? To this question the judges unanimously replied that they could not . . .'

There can be no doubt whatever that this question was provoked by the trial of Suffolk in 1386 in which for the first time the commons repeated their performance at Latimer's trial ten years earlier. In the intervening years, as we have seen, determined efforts had been made by successive governments to capture the impeachment procedure and make it a strictly crown proceeding. The judges now set the seal of their authority upon the dogma that impeachment is properly brought at the suit of the crown and only with the consent of the crown.

That decision was a heavy blow to the baronial factions. No longer could they put ministers on trial without the concurrence of the crown, simply by inciting the commons to 'clamour' and to 'impeach'. They seem to have felt, as had the king, that the question was indeed a legal one, but that the judges had decided it against them. A new solution of their problem was urgently needed, and their own lawyers soon found it for them.

This was the appeal, and it was singularly suitable for their purpose. It was of great antiquity and firmly embedded in the common law. Whereas the novelty of impeachment, and the fewness of the precedents, left its very nature in doubt, there was no doubt at all about the appeal, which was surrounded by a body of law as ancient and as well known as that of the indictment itself. Above all, it was undeniable law that an appeal was a criminal proceeding at the suit of a party and that it needed no authorization from the crown. So independent was it of royal justice that an accused who had been acquitted in an appeal could still be brought to trial again by the crown, and an accused who had been tried on indictment and found not guilty at the suit of the crown, could still be subjected to an appeal by a private prosecutor.[1] This was exactly what the baronial factions were looking for—a criminal procedure over which the crown had no control.

A further merit of the appeal was the fact that it could be used

[1] The last and most famous example is *Ashford* v. *Thornton* (1819), 1 B. & Ald. 405.

for treason[1] and felony—and indeed had once been commonly used for trespass also. The one shadow of doubt was which court could entertain the proceedings. The courts of the justices in eyre, and of the king's bench, were certainly very familiar with the appeal, and under Richard II the court of the constable and marshal incurred the displeasure of the commons for entertaining appeals of treason and felony committed within the realm.[2] For appeals of treason in parliament there was as yet no precedent.

The lords appellants have left their own considered view of their proceedings upon the parliament roll.[3] From this we learn that Gloucester, Arundel and Warwick first brought their appeal at Waltham in November 1387 before the commission of government set up in 1386, the appellees being there present. The commissioners informed the king and arranged a meeting, and shortly afterwards the appellants repeated their appeal before the king and his council; the king reserved the matter until parliament should meet some two months later. Meantime, at the tower of London after Christmas, new parties were joined: Derby and Nottingham also became appellants and a third time the appeal was made. On the 3rd of February 1388 in parliament the lords appellants 'appealed and said' the thirty-nine articles which occupy six folio pages of print. Most of the appellees when called did not appear —they had had ample time to escape abroad—whereupon the appellants demanded judgement against them.

At this point the lords felt the need of legal advice and consulted the judges, serjeants and common lawyers, together with the experts in civil law. These reported (with pacific intentions no doubt) that the appeals were invalid both by common law and civil law, giving no reasons, however. Thereupon the lords overruling their experts made the famous declaration that the civil law had no place at all, and the common law only a restricted place in the kingdom, and that above it was the law and course of parliament, and by that law the appeals were valid. Once again it is to be remarked with what anxious diligence the law was searched,

[1] Appeals of treason are listed in Pollock and Maitland, *History of English Law*, ii. 507, and in L. W. V. Harcourt, *His Grace the Steward*, p. 349 *n.*

[2] The constable's jurisdiction over appeals of treason and felony committed abroad was not contested: Harcourt, *op. cit.*, 362 ff., *Rot. Parl.*, iii. 65 (47). Cf. the statute 13 Ric. II, c. 2.

[3] *Rot. Parl.*, iii. 229–38.

English, foreign and fabulous, and how concerned the lords were to find a theory for their decisions in a matter where precedent failed. It seems to have been a decision of the king himself to transfer the appeals to parliament[1]; thereby he gained time, evidently, but he also helped the appellants over their biggest difficulty of finding a way into parliament. The lords were not loath to accept this tribute to their position in the constitution.

That position was not only legal, but political. A substantial portion of the lords was without commitments to the small but turbulent factions which manufactured these crises, as we may infer from the sensible attempt to quash the appeals. When that failed it needed the astonishing flattery of the '*lex parliamenti*' theory to induce the lords to continue the hearing. The natural moderation and reluctance of the lords as a body, coupled with the king's genuine sense of law, were further outraged by the demand of the appellants that the defaulting accused should be treated as immediately convicted. This proposition was unheard of in English law. Even trial in absence had no place in our criminal system, and if the accused could not be found there was only one possible course—outlawry.

The king and the lords together rejected the revolutionary demand of instant conviction. But pressure of some sort had forced them to yield so far as to conduct a trial in absence. It was no pretence: for nine days the lords investigated the articles 'so that they might give a judgement in this case which would be to the honour of God, of the king and of the realm' and 'using every means to inform their consciences.' The defaulters were found guilty of treason and sentenced. The *lex parliamenti* had done its work, but there is nothing to show that the lords were at all proud of the novel doctrine that had been thrust upon them.

Different problems were raised, and received different treatment, in the cases of Brembre and Tresilian who had been captured and appeared in person for their trial.[2] Brembre at once pleaded not guilty and offered trial by battle 'as a knight should do'. At this point we are surprised to find an intervention by the commons who are here mentioned for the first time in the roll. They seem to say that they would have accused the appellee

[1] A. Steel, *Richard II*, p. 138, regards this as 'his first really intelligent move in the whole crisis'.

[2] *Rot. Parl.*, iii. 237*b*–238.

'which thing pertained to them to do', had not the lords appellants forestalled them. The point of this remark is not clear, and the lords proceeded to rule out trial by battle. Instead, they would inform their consciences by all possible means, as they would answer before God. They found him guilty and he was hanged forthwith. As for Tresilian who had been tried and sentenced *in absentia*, he was captured and brought into parliament. A brief *allocutus*, and the previous sentence was carried out without further ado. The proceedings ended with a remarkable declaration that the king had had nothing to do with all this owing to his tender age and the innocence of his royal person.[1] He was in fact just over twenty-one.

That is far from the complete tale of the deeds of the Merciless Parliament, but we have reached the point where new and desperate courses were being tried. There was real ground for the belief that impeachment was slipping from the grasp of opponents of the court, and the introduction of appeals into parliament was surely meant to be the answer. True, the king persisted in taking part in the proceedings in spite of the fact that he was virtually the appellants' prisoner, and this rather spoiled the picture of the traditional appeal of the common law. The appellants tried to put things right again by their curious declaration exonerating the king from the whole affair. If they succeeded in establishing a criminal procedure independent of the crown it was only by the barest margin.

The parliament roll is a workmanlike record from the Appellants' point of view of what lay behind the cloth of gold and all the picturesque chivalry which the chroniclers describe. The Merciless Parliament has long been credited with its flight into political theory, but on that some reserves must be made. Nevertheless on the lower plane of law and procedure it is clear that much technical thought had taken place. The hand of the lawyers is visible everywhere, and above all it is necessary to observe that both the king and his opponents appealed to the law. Nor was their thought entirely confined to the technical side of law. The roll frequently refers to 'conscience' and to the need of using every means to inform their consciences in order to reach a right judgement. This alone is enough to show that some of those concerned felt anxious about these proceedings. Politically no doubt

[1] *Rot. Parl.*, iii. 238.

the appellants were engaged in recklessly vindictive acts, but they felt the need of clothing them in the ancient vestments of the law. Even if we say that the king, or his opponents, or both, were deliberately insincere in their actions, it still remains to observe that their hypocrisy was the homage which vice renders to virtue, and that their manipulations of procedure impressed upon all beholders the simple fact that legality was part of the nation's traditions.

ROYAL HISTORICAL SOCIETY

REPORT OF COUNCIL. SESSION 1950–51

THE Council of the Royal Historical Society have the honour of presenting the Annual Report to the Anniversary Meeting as follows:

At the Anniversary Meeting on 16 December 1950, By-law XII was amended so as to authorise the Council to fix a special price, at a reduction of some other figure besides 25%, for the sale to members of the Society of volumes issued by the Society, other than those in the ordinary series of *Transactions*, *Camden Series*, and *Guides and Handbooks*.

In the course of the session the Council have submitted to the Committee on the Export of Works of Art, etc., a memorandum on the export of manuscripts, portraits, topographical drawings and paintings, coins, medals, and collections of printed matter such as proclamations, broadsides, public notices, commercial posters, and trade cards.

The following five volumes were issued during the session: *Transactions*, *Fourth Series*, Volume XXXII; *The Private Correspondence of Lord Macartney, Governor of Madras, 1781–85*, edited by C. C. Davies; *Select Documents of the English lands of the Abbey of Bec*, edited by Marjorie Chibnall; *Guide to the National and Provincial Directories of England and Wales, excluding London, published before 1856*, by Jane E. Norton; and *Handbook of Oriental History*, edited by C. H. Philips. The volume of *Select Documents of the English lands of the Abbey of Bec* was numbered Volume LXXIII in the *Camden Third Series* and assigned to the year 1944–45. *The Private Correspondence of Lord Macartney* was numbered Volume LXXVII in the same series and assigned as the second volume for the year 1947–48. The *Guide to Directories* and the *Handbook of Oriental History* were numbered 5 and 6 in the *Guides and Handbooks Series* and were allocated to the years 1943–44/1944–45 and 1945–46/1946–47 respectively.

At the end of the session eight further volumes (excluding *Transactions*) were in the press. The Council have also approved for publication the following works: *The Kalendar of Abbot Samson of Bury St. Edmund's and Royal Charters concerning the Liberty*, to be edited by R. H. C. Davis; *Some Documents regarding the fulfilment and interpretation of the Treaty of Bretigny*, to be edited by P. Chaplais; and *The Minute Book of James Courthope, Committee Clerk of the House of*

Commons, December 1697–May 1699, to be edited by O. C. Williams. The last two will form parts of Camden Miscellanies.

The Council have invited Mr. J. Hurstfield to prepare a revised edition of G. W. Prothero's *Select Statutes and other Constitutional Documents illustrative of the Reigns of Elizabeth and James I.*

It has been decided by Council that the price of volumes of *Transactions* and *Miscellaneous Publications* issued before 1918, and of volumes in the *Camden Series* (*Old* and *New*), should be increased by one-third (to the nearest 6d.), and that the reduction in the price of the *Domesday Monachorum of Christ Church, Canterbury*, offered to members of the Society and to Subscribing Libraries, should now be withdrawn.

S. Pargellis and D. J. Medley, *Bibliography of British History, the Eighteenth Century, 1714–1789*, was published on 1 February 1951.

The following papers were read during the session 1950–51:

'The electorate and the repeal of the corn laws.' By G. S. R. Kitson Clark. (14 October 1950.)

'George III and the politicians.' By Professor R. Pares. (11 November 1950.)

'The Church in England between the death of Bede and the Danish invasions.' By D. J. V. Fisher. (13 January 1951.)

'Florence and the despots. Some aspects of Florentine diplomacy in the fourteenth century.' By Dr. N. Rubinstein. (10 February 1951.)

'The generals and the downfall of the German monarchy, 1917–18.' By Dr. E. Eyck. (10 March 1951.)

'Edward III and the beginning of the Hundred Years War.' By G. Templeman. (19 May 1951.)

The President, Professor T. F. T. Plucknett, delivered an address at the Anniversary Meeting on 16 December 1950 on 'The impeachments of 1376'. The Alexander Prize was awarded to K. G. Davies for his essay on 'The origins of the commission system in the West India Trade'. The essay was read at the meeting on 16 June. Miss A. M. Taylor was awarded a *proxime accessit* for the Prize. The annual garden party was held on 14 July 1951.

At the Anniversary Meeting on 16 December 1950 Sir Cyril Flower, Professor L. B. Namier, and Professor Sir Charles Webster were elected Honorary Vice-Presidents. The Vice-Presidents retiring under By-law XVII were Professor J. G. Edwards and Sir Henry Hake. Professor T. S. Ashton and Professor Lillian M. Penson were elected to fill the vacancies. The members of Council retiring under By-law XVII were Professor R. R. Betts, Miss K. Major, W. A. Pantin, and Professor A. Aspinall. Professor H. J. Habakkuk, J. W. F. Hill, Miss M. McKisack, and Professor R. F. Treharne were elected to fill the vacancies. Messrs. C. Ryland Beeby and Co. were appointed auditors for the year 1950–51.

Council record with regret the death of 22 Fellows; amongst these, Council would mention specially Professor R. Altamira y Crevea, a Fellow and a Corresponding Member from 1932 until his death; Sir Henry Hake, a Vice-President from 1947 to 1950; and B. H. Sumner, a member of Council from 1938 to 1941, and a Vice-President from 1941 to 1944 and from 1946 to 1947. Council record also with regret the death of 2 Corresponding Members, Professor A. O. Meyer, elected in 1913, and Professor H. R. von Srbik, elected in 1935. 14 Fellows have resigned and 4 libraries have ceased to be Subscribing Libraries. 2 Fellows have been removed from the roll of Fellows and 2 libraries have been removed from the list of Subscribing Libraries for non-payment of their subscriptions. 18 Fellows and 11 Associates have been elected and 10 libraries have been admitted as Subscribing Libraries. 1 Fellow has been re-admitted. 4 Associates have been elected to the Fellowship. The membership of the Society on 30 June 1951 was 747 Ordinary Fellows, 1 Honorary Fellow, 16 Corresponding Members, and 88 Associates. Of the Fellows, 254 were Life Members. The Subscribing Libraries numbered 354. 24 Societies, British and foreign, exchanged their publications with those of the Royal Historical Society.

The Treasurer reports that sums amounting to £7 7s. 0d. have been given to the Society during the year 1 July 1950 to 30 June 1951. The income of the year exceeded the expenditure chargeable against it by £376 17s. 11d. This surplus has been allocated to Publications. The sum of £1,626 17s. 11d. has thus been granted for Publications, as against £1,457 6s. 0d. in the previous year, making, with the addition of the proceeds of sales and the sum transferred from the Bibliography of British History Fund, an allocation to the Publications Fund of £2,079 18s. 2d.

ROYAL HISTORICAL SOCIETY

I.—Income and Expenditure Account for the Year ended 30 June 1951

Dr. *Cr.*

1950	*Expenditure*		£ s. d.
£			
	Establishment Expenses		
202	Rent—96, Cheyne Walk	£202 2 0	
19	Rent—Warehousing of Stock	19 10 0	
75	Rates	75 9 6	
21	Insurances, *less* Commission	21 13 2	
1	Repairs and Decorations £111 16 0		
	Less Received from War Damage Commissioners 35 16 0	76 0 0	
64	Wages	62 8 0	
22	Extra Service and Cleaning	24 18 11	
17	Lighting and Heating	17 13 4	
9	National Insurance	8 9 0	
13	Catering	12 5 6	
6	Sundries	17 6 5	
449			537 15 10
	Secretarial and Administrative Expenses		
450	Salary	450 0 0	
45	Superannuation	45 0 0	
159	Clerk's Salary (Part)	166 13 9	
15	National Insurance	14 15 9	
99	General Printing and Stationery (*less* Sales of Official Pamphlet, £1 5s.)	128 18 8	
35	Accountancy and Audit	34 13 0	
50	Postages	49 15 0	
13	Telephone	13 2 1	
14	Sundries	12 0 6	
880			914 18 9
	Other Charges		
7	Alexander Prize Medal	7 0 0	
1	Friends of National Libraries	1 1 0	
1	British Records Association	1 0 0	
—	British National Committee of the International Congress of Historical Sciences	15 15 0	
16	Designing and cutting seal and book stamp	54 10 0	
—			
25			79 6 0
100	**Library**—Grant		100 0 0
200	**Contingencies Reserve Fund**—Grant		100 0 0
	Publications		
180	Director's Honorarium	180 0 0	
53	Clerk's Salary (Part)	55 11 3	
49	Other Secretarial Expenses	40 9 9	
2	National Insurance	2 2 3	
900	Publications Account: Grant £1,250 0 0		
192	Proceeds from sales (*per contra*) transferred 341 2 6		
		1,591 2 6	
1,376			1,869 5 9
3,030	**Balance**, being Excess of Income over Expenditure for the year transferred as a further amount for Publications		3,601 6 4

1950	*Income*		£ s. d.
£			
	Subscriptions		
	Received for 1951—		
83	Associates	£92 8 0	
622	Libraries	618 11 5	
1,130	Fellows	1,502 16 10	
1,835			2,213 16 3
203	Arrears of subscriptions received		106 2 2
640	Life Subscriptions	519 15 0	
	Less Proportion required by By-law IX to be invested	327 12 0	
395			
245			192 3 0
2,283			2,512 1 5
	Interest and Dividends		
291	From General Investments	291 8 4	
754	From Sir George W. Prothero Bequest	735 0 11	
42	Bank Interest	69 3 8	
1,087			1,095 12 11
	Royalties		
25	From Sir George W. Prothero Bequest		29 7 5
192	**Sales of Publications**		341 2 6

ROYAL HISTORICAL SOCIETY

II.—Balance Sheet 30 June 1951

1950		£ s. d.	1950		£ s. d.	£ s. d.
£	Funds		£	Investments		
	Balances at 30th June 1951 as per		9,354	General Account . . £9,353 15 8		
35,178	Account III	35,445 11 6		(Market Value at 30 June 1951, £8,142 12s. 9d.)		
			22,379	Sir George W. Prothero Bequest . . . 22,378 11 5		
				(Market Value at 30 June 1951, £18,544 1s. 8d.)		
118	Subscriptions received in Advance .	58 15 7	31,733		31,732 7 1	
				Current Assets		
				Balances at Banks :—		
			482	Current Accounts . 377 0 0		
			84	Deposit Account . 46 16 6		
			1,684	Post Office Savings Bank 1,625 18 0		
				London Trustee Savings		
			1,309	Bank . . . 1,719 5 9		
			4	Cash in hand . . 2 19 9		
			3,563		3,772 0 0	
				Note : The Society also owns the Library, Furniture and Office Equipment at 96, Cheyne Walk, Chelsea, and a Stock of its own publications, the cost of which has been written off to Income and Expenditure Account.		
£35,296		£35,504 7 1	£35,296		£35,504 7 1	

We have examined the foregoing Income and Expenditure Account and Balance Sheet with the Books and Vouchers of the Society. We have verified the Investments appearing in the Balance Sheet. We report that the above Balance Sheet is, in our opinion, properly drawn up so as to exhibit a true and correct view of the state of the affairs of the Society, according to the best of our information and explanations given to us, and as shown by the books of the Society.

C. RYLAND BEEBY & CO.,
Chartered Accountants, Auditors.

119/125, Finsbury Pavement, London, E.C.2.
28 *September*, 1951.

ROYAL HISTORICAL SOCIETY

III.—Statement of Funds 30 June 1951

		Balance at the Beginning of the Year. £ s. d.		Grants and Additions during the Year. £ s. d.		Expenditure and Withdrawals during the Year. £ s. d.	Balance at the End of the Year. £ s. d.
The Sir George W. Prothero Bequest		22,405 19 6		—		—	22,405 19 6
Life Subscriptions Fund		2,607 6 0	(a)	327 12 0	(b)	77 12 0	2,857 6 0
Contingencies Reserve Fund (formerly Lease Renewal Fund)		312 0 4	(c)	100 0 0		—	412 0 4
Pension Fund		1,306 4 6		—	(d)	200 0 0	1,106 4 6
Library Fund		87 7 3	(e)	134 14 7		200 18 11	21 2 11
Publications Reserve Fund		1,231 18 0	(f)	7 7 0		—	1,239 5 0
Publications Fund (g)		4,280 2 6		2,079 18 2		1,856 7 4	4,503 13 4
'Writings on British History' Fund		525 0 0		—	(h)	125 0 0	400 0 0
General Fund		2,422 7 11	(b)	77 12 0		—	2,499 19 11
		£35,178 6 0		£2,727 3 9		£2,459 18 3	£35,445 11 6

REFERENCES

(a) Proportion of Life Subscriptions received in 1951 and required by By-law IX to be invested.
(b) Proportion of Life Subscriptions transferred to General Fund in accordance with By-law IX.
(c) Grant for the year.
(d) Payment to Miss M. B. Curran.
(e) £34 14s. 7d. proceeds from sales during the year, *plus* £100 Grant for the year.
(f) Donations.
(g) See Account IV.
(h) Balance of Subsidy on 'Writings 1938'.

ROYAL HISTORICAL SOCIETY

IV.—Publications Account for the Year ended 30 June 1951

Dr. *Cr.*

	£ s. d.		£ s. d.
To Payments made during the Year:—		By Balance of Allocations at 30 June 1950, Brought Forward	4,280 2 6
Camden Third Series:—			
Vol. LXXVII.	484 9 9		
,, Transactions:—			
Vol. XXXII—Postages and Offprints	37 11 0		
,, Guide to Directories	509 0 10		
,, Handbook of Oriental History	783 17 7		
,, Purchase of Volumes to replace Stock	5 1 4		
,, Sundry Postages, Packing and Expenses	36 6 10		
	1,856 7 4	,, Allocation for Publications, 1950–51:—	
		Grants	1,626 17 11
		Proceeds of Sales (As per Income and Expenditure Acct.)	341 2 6
		,, Amount transferred from the Bibliography of British History Fund	111 17 9
			2,079 18 2
,, Balance of Allocations at 30 June 1951 (required to meet cost of publications due to subscribers at date of account)	4,503 13 4		
	£6,360 0 8		£6,360 0 8

THE DAVID BERRY TRUST

Receipts and Payments Account for the Year ended 30 June 1951

Receipts	£	s.	d.	*Payments*	£	s.	d.
To Balance in Hand, 30 June 1950, brought forward from last Account, viz.:				By Printing and Postage	2	2	1
Cash at Bank: Current Account £55 4 9				,, Medals	67	3	10
Deposit Account 21 17 8				,, Balance in Hand, 30 June 1951, carried forward, viz.:			
Cash in hand 1 0 10				Cash at Bank: Current Account £45 0 1			
£100 3% Defence Bonds (at cost) 100 0 0				Deposit Account 6 18 6			
£200 2½% Defence Bonds (at cost) 200 0 0				Cash in Hand 14 3			
	378	3	3	£100 3% Defence Bonds (at cost) 100 0 0			
,, Dividends on Investments per Charity Commissioners	35	14	8	£200 2½% Defence Bonds (at cost) 200 0 0			
,, Interest on £100 3% Defence Bonds	3	0	0		352	12	10
,, Interest on £200 2½% Defence Bonds	5	0	0				
,, Interest on Deposit Account at Bank			10				
	£421	18	9		£421	18	9

We have examined the above account and find it correct.

C. RYLAND BEEBY & CO.,
Chartered Accountants, Auditors.

119/125, Finsbury Pavement, London, E.C.2.
28 *September* 1951.

The late David Berry, by his Will dated the 23rd day of April, 1926, left £1,000 to provide in every third year a gold medal and prize money for the best essay on the Earl of Bothwell, or, at the discretion of the Trustee, on Scottish History of the James Stuarts I to VI, in memory of his father, the late Rev. David Berry.

The Trust is now regulated by a Scheme sanctioned by the Chancery Division of the High Court of Justice dated the 23rd day of January 1930, and made in an Action 1927.A.1233 David Anderson Berry, decd., Hunter and another *v.* Robertson and another.

This Society is now the Trustee, and the investments held on Capital Account consist of £634 17s. 2d. 3½% Conversion Stock and £540 13s. 2d. Treasury Stock 2½% 1975.

The Trustee will in every second year of the three-year period advertise in *The Times* inviting essays.

ALEXANDER PRIZE

The Alexander Prize was established in 1897 by L. C. Alexander, F.R.Hist.S. It consists of a Silver Medal awarded annually for an essay upon some historical subject. Candidates may select their own subject provided such subject has been previously submitted to and approved by the Literary Director. The essay must be a genuine work of original research, not hitherto published, and one which has not been awarded any other prize. It must not exceed 6,000 words in length and must be sent in on or before 31 January 1952.

LIST OF ALEXANDER PRIZE ESSAYISTS (1898–1951)[1]

1898. F. Hermia Durham ('The Relations of the Crown to Trade under James I').
1899. W. F. Lord, B.A. ('The Development of Political Parties in the reign of Queen Anne').
1901. Laura M. Roberts ('The Peace of Lunéville').
1902. V. B. Redstone ('The Social Condition of England during the Wars of the Roses').
1903. Rose Graham ('The Intellectual Influence of English Monasticism between the tenth and twelfth centuries').
1904. Enid W. G. Routh ('The Balance of Power in the Seventeenth Century').
1905. W. A. P. Mason, M.A. ('The Beginnings of the Cistercian Order').
1906. Rachel R. Reid, M.A. ('The Rebellion of the Earls, 1569').
1908. Kate Hotblack ('The Peace of Paris, 1763').
1909. Nellie Nield, M.A. ('The Social and Economic Condition of the Unfree Classes in England in the Twelfth and Thirteenth Centuries').
1912. H. G. Richardson ('The Parish Clergy of the Thirteenth and Fourteenth Centuries').
1917. Isobel D. Thornley, B.A. ('The Treason Legislation of 1531–1534').
1918. T. F. T. Plucknett, B.A. ('The Place of the Council in the Fifteenth Century').
1919. Edna F. White, M.A. ('The Jurisdiction of the Privy Council under the Tudors').
1920. J. E. Neale, M.A. ('The Commons Journals of the Tudor Period').
1922. C. E. Martin ('The English Establishments on the Gold Coast in the Second Half of the Eighteenth Century').

[1] No award was made in 1900, 1907, 1910, 1911, 1913, 1914, 1921, 1946, 1948. The prize Essays for 1909 and 1919 were not published in the *Transactions*. No Essays were submitted in 1915, 1916 and 1943.

1923. E. W. Hensman, M.A. ('The Civil War of 1648 in the East Midlands').
1924. Grace Stretton, B.A. ('Some Aspects of Mediæval Travel').
1925. F. A. Mace, M.A. ('Devonshire Ports in the Fourteenth and Fifteenth Centuries').
1926. Marian J. Tooley, M.A. ('The Authorship of the *Defensor Pacis*').
1927. W. A. Pantin, B.A. ('Chapters of the English Black Monks, 1215–1540').
1928. Gladys A. Thornton, B.A., Ph.D. ('A Study in the History of Clare, Suffolk, with special reference to its development as a Borough').
1929. F. S. Rodkey, A.M., Ph.D. ('Lord Palmerston's Policy for the Rejuvenation of Turkey, 1839–47').
1930. A. A. Ettinger, D.Phil. ('The Proposed Anglo-Franco-American Treaty of 1852 to guarantee Cuba to Spain').
1931. Kathleen A. Walpole, M.A. ('The Humanitarian Movement of the Early Nineteenth Century to Remedy Abuses on Emigrant Vessels to America').
1932. Dorothy M. Brodie, B.A. ('Edmund Dudley, Minister of Henry VII').
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1942. F. L. Carsten, D.Phil. ('Medieval Democracy in the Brandenburg Towns and its Defeat in the Fifteenth Century').
1944. Rev. E. W. Kemp, B.D. ('Pope Alexander III and the Canonization of Saints').
1945. Helen Suggett, B.Litt. ('The use of French in England in the later Middle Ages').
1947. Mrs. June Milne, B.A. ('The Diplomacy of Dr. John Robinson at the Court of Charles XII of Sweden, 1697–1709').
1949. Ethel Drus, M.A. ('The attitude of the Colonial Office to the annexation of Fiji').
1950. Doreen J. Milne, M.A., Ph.D. ('The results of the Rye House Plot, and their influence upon the Revolution of 1688').
1951. K. G. Davies, B.A. ('The origins of the commission system in the West India Trade').

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LIST OF DAVID BERRY PRIZE ESSAYISTS (1937–1949)[1]

1937. G. Donaldson, M.A. ('The Polity of the Scottish Reformed Church *c.* 1560–1580, and the Rise of the Presbyterian Movement').
1943. Rev. Prof. A. F. Scott Pearson, D.Th., D.Litt. ('Anglo-Scottish Religious Relations, 1400–1600').
1949. T. Bedford Franklin, M.A., F.R.S.E. ('Monastic agriculture in Scotland, 1440–1600').

[1] No Essays were submitted in 1940. No award was made in 1946.

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San Francisco (Cal.), Public Library, Civic Center.
San Marino (Cal.), Henry E. Huntington Library and Art Gallery.
Seattle (Wash.), University of Washington.
South Hadley (Mass.), Mount Holyoke College.
Stanford (Cal.), University.
State College (Pa.), Pennsylvania State College.
Storrs (Conn.), University of Connecticut, Wilbur Cross Library.
Swarthmore (Pa.), Swarthmore College.
Syracuse (N.Y.), Syracuse University.

Terre Haute (Ind.), Indiana State Normal School.

Urbana (Ill.), Illinois University.

Washington (D.C.), Catholic University of America.
Wellesley (Mass.), Wellesley College.
Williamstown (Mass.), Williams College.
Winona (Minn.), College of Saint Teresa.

URUGUAY

Montevideo, Instituto de Investigaciones Historicas, Universidad de Montevideo, Facultad de Humanidades y Ciencias, Cerrito 73.

U.S.S.R.

Moscow, Library of Social Sciences of the Academy of Science of U.S.S.R.

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Royal Society of Antiquaries of Ireland, 63 Merrion Square, Dublin.
Society of Antiquaries of Scotland, Queen Street, Edinburgh.
The Hon. Society of Cymmrodorion, 20 Bedford Square, W.C.1.
Surrey Archæological Society, Castle Arch, Guildford.
Jewish Historical Society, Mocatta Library, University College, Gower Street, W.C.1.
The Victoria University, Manchester.
Thoroton Society, Bromley House, Angel Row, Nottingham.

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BELGIUM

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FRANCE

Bibliothèque de l'Université de Toulouse, 2 rue de l'Université, Toulouse, Haute-Garonne.
Société de l'École Nationale des Chartes, 19 rue de la Sorbonne, Paris.
Société de l'Histoire de France, 60 rue des Francs-Bourgeois, Paris.

GERMANY

Hansischer Geschichtsverein, Staats Archiv, Königstrasse 21, Lübeck.
Offentliche Wissenschaftliche Bibliothek Tauchstelle, Unter den Linden 8, Berlin, N.W.7.

HOLLAND

Bureau van de Rijks Commissie voor Vaderlandse Geschiedenis, 7 Bleyenburg, The Hague.
Historisch Genootschap, Utrecht, c/o Bibliothèque de l'Université.

POLAND

Société des Sciences et des Lettres de Varsovie, L'Université, Warsaw.

SWEDEN

Historisk Tidskrift, Storgatan 41, Stockholm.

SWITZERLAND

Allgemeine Geschichtsforschende Gesellschaft der Schweiz. Stadt Bibliothek, Berne.

UNITED STATES

Library of Congress, Washington, D.C.

U.S.S.R.

Moscow, State Historical Library.
State Lenin Library, Ulitza Kalinina 3.
Ukrainian Academy of Sciences.

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